

Sf-21-031

**Declaration of
Protective Covenants, Conditions, Restrictions, Easements and Charges Eagle
Forest Subdivision
County of El Paso State of
Colorado**

This Declaration of Protective Covenants, Conditions, Restrictions, Easements and Charges ("Declaration") is executed as of SEPTEMBER 23, 2022, by Eagle Forest Development, LLC, a Colorado company (the "Declarant").

WHEREAS, Declarant is the owner of lots one through nine inclusive of Eagle Forest Subdivision (the "Development" or "Eagle Forest Subdivision"), situated in the County of El Paso, State of Colorado.

NOW THEREFORE, in consideration of the acceptance hereof by the several purchasers and grantees (his, hers, their or its heirs, executors, administrators, personal representatives, successors and assigns, and all persons or concerns claiming by, through or under such grantees), as an "Owner," of deeds to lots in such tract of land, said Declarant hereby declares that the covenants, conditions, restrictions, easements and charges set forth herein shall run with the land constituting Eagle Forest Subdivision and shall be binding upon the lots therein and all parties subsequently having or acquiring any right, title or interest in the real Property, the Development, or any lot (including tenants), shall be for the benefit of each Owner, and shall inure to the benefit of and be binding upon each successor in interest of each and all of the Owners. Declarant furthermore declares, and agrees with each and every person who shall be or shall become Owner of any of said lots, in addition to the ordinances of the County of El Paso, Colorado, that it shall be and hereby is bound by the covenants set forth in these presents and that the property described in these restrictions shall be held and enjoyed subject to the benefit and advantage of the following restrictions, limitations, conditions and agreements, to wit:

1. INTENT: The intent of these covenants is to preserve Eagle Forest Subdivision as a high quality residential area of lasting value. Property Owners shall be people who will uphold the letter, spirit and intent of these covenants. These covenants are considered reasonable and necessary to preserve the integrity of the entire Development.

2. BUILDING TYPE AND USE: All lots shall be known, described and used only as single-family residential lots and shall not be used for more than one custom-built residential home, a private attached or detached garage, accessory living quarters, storage building, all in keeping with the architecture of the principal residence. and subject to the approval of the Architectural Committee (the "AC"). Manufactured housing and mobile homes for use as primary residence or accessory living quarters are prohibited. A permitted accessory living quarters shall include an attached or detached structure containing a kitchen, multi-purpose room, and not more than two bedrooms and two bathrooms. A single family residence or accessory living quarters may not be leased or rented. Accessory living quarters are intended to be used only for occasional visitors or guests of the Property Owner.

3. HEIGHT AND SIZE OF RESIDENTIAL BUILDINGS: The maximum height of the dwelling or accessory living quarters shall be two and one half (2-1/2) stories, and not to exceed thirty-five feet as defined in Section 1.15 of the El Paso County Land Development Code. The AC may grant requests for minor variances as to size or height criteria when other factors which enhance the quality of the structure



conclusively justify such variance. For a multi-story home, the finished above-grade living area of the main dwelling (exclusive of porches, decks, a full or partial basement, and garages) shall not be less than 1,200 square feet. For a single-level (ranch-style) home or a home with a walkout basement, the total finished living area on the main floor shall be not less than 1,500 square feet exclusive of porches, decks and garages. Enclosed attached or detached garages are required for all houses and shall be of sufficient size to accommodate at least two full-size automobiles, side-by-side. Oversized three or four car garages are recommended as economical and practical storage space, but if attached cannot exceed 1,200 sf. Special cases for garage space may be accommodated at the sole discretion of the AC. The AC may restrict buildings to single level homes on some lots to ensure that views are not overly compromised on other lots. Subject to the other approvals required by these covenants, each lot may accommodate one accessory living quarters which shall not exceed 1,200 square feet of heated area, and no more than 200 square feet of unheated covered porch or patio.

4. BUILDING LOCATION: All building plans must be submitted to the AC prior to construction in accordance with the procedures set forth in Section 10. All house plans that are submitted to the AC for review and approval shall include a site plan showing the planned location of any improvements for the lot, including an adequate grading and drainage plan. The AC may require site changes if, in its sole discretion and opinion, the proposed site location would unduly interfere with other lots, terrain or natural vegetation. The lots shall be maintained in their natural state as nearly as is possible, except for irrigated lawn and/or garden (maximum size of 3,000 sf). However, Property Owners are encouraged to plant and nurture trees that are native to the area and/or can thrive in this climate.

SETBACKS:

Each lot has specific setbacks as indicated below and/or on the PUD Development Plan. Lot lines may be moved up to 20 feet from the currently shown locations. In cases where the lot lines are moved, in order to maintain an equivalent size building area, the EPC Planning and Community Development Department (EPCPCDD). Director may authorize setback changes within the minimums established below. The following shall be minimum setbacks unless the Building Envelopes shown on the Final Plat are more restrictive:

- Front: 25 feet
- Side: 25 feet
- Rear: 35 feet

Variances from the setbacks delineated by the building envelopes shown on the PUD and Preliminary Plan shall be approved by the EFACC. Following EFACC approval, applicant shall submit documentation of such approval to the EPCPCDD for verification so that residential site plans and/or building permits may be approved. Variance requests that propose setbacks that are less than the minimum setbacks listed above shall be approved by the EFACC. Following EFACC approval, applicant may submit documentation of such approval along with a request for Administrative Relief (up to 20% reduction in setbacks) which may be approved administratively by the EPCPCDD Director or a for a variance which, if a hardship is demonstrated, may be approved by the EPC Board of Adjustment.

For purposes of these setback requirements chimneys, eaves, overhangs, steps, porches, decks and garages shall be considered as part of the structure.

5. TEMPORARY RESIDENCES: No structures of temporary character, such as a trailer, camper,



basement, tent or accessory building of any kind, shall be temporarily or permanently parked or used on any lots as a residence. An accessory living quarters which meets the other requirements of these covenants may be constructed and used as a temporary residence while the primary residence is being constructed, but the period of time between the completion of such accessory living quarters and the completion of the primary house shall not exceed six months. A reasonable number of neatly kept, enclosed trailers may be used temporarily only during construction to store equipment, tools, and/or building materials or for a field office. Temporary trailers may be permitted by Declarant for sales and marketing purposes.

Please refer to the Eagle Forest Development Guidelines for regulations regarding outside storage of RV's trailers, snowmobiles, boats, large commercial trucks, heavy equipment, inoperable passenger vehicles, lawn and garden equipment or any other items that are unsightly.

6. TIME OF CONSTRUCTION: Construction shall not start until approved in advance by the AC. If any structure is abandoned, Declarant and/or the AC shall have the authority to remove or complete all or portions of such structure to prevent its being unsightly and a detriment to the Development, the Declarant, its successors or assigns, may, at its sole discretion, repurchase said lot(s) at the original sale price less repair or removal costs. Notice of intent to remove or complete and charge for the expenses or to repurchase the lot will be mailed by certified mail to the owner of record at his/her last known address and shall be posted on the lot a minimum of sixty days prior to such action. Such expenses, if not paid promptly, may result in a lien placed against the property as permitted hereunder.

7. HOMEOWNER'S ASSOCIATION: Owners of lots in Eagle Forest Subdivision shall automatically become members of the EAGLE FOREST HOMEOWNERS ASSOCIATION, INC., a Colorado non-profit corporation (the "Association"). Membership is mandatory and concurrent with change of title to any new Property Owner. The Association shall assess and collect membership fees for Association expenses, based on a reasonable estimate, which amount shall initially be in the annual amount of Two Hundred Forty (\$240.00) for each lot, payable in advance, at the initial closing and on January 1st of each subsequent year, which may be prorated based on the length of ownership during any applicable year. Additionally, the Association shall assess and collect a fee for the Capital Fund of \$750.00 for each lot. Said Capital Fund fee shall be assessed to the first Owner after the Declarant and shall be paid at the initial closing. Further, in accordance with its charter documents and bylaws, the Association shall be entitled to increase the amount of its annual membership fees, and declare and collect additional assessments from each Owner, pro rata, for improvements to the Development, maintenance of an adequate enforcement fund, capital fund and other costs and expenses of the Association. Each lot shall have one vote on Association matters while in good standing and not in default of any obligation owing to the Association. The Declarant, its successors and/or assigns, shall remain responsible for paying the dues for any lot that remains in its possession, and has not been sold, beginning the third of January 1st after the date of the final plat recording for such lot(s). The Association, its successors or assigns, may file a lien against lots for the non-payment of any assessment which are in arrears forty-five days or more. Failure to pay will automatically remove voting privileges. The Association is managed according to its By-Laws and Articles of Incorporation, which among other provisions also provides for an increase in membership fees, if necessary, as required by the Association's budget.

At the option of the Association, membership fees and assessments may be paid on a quarterly basis.

8. ARCHITECTURAL COMMITTEE:



A. The AC is initially composed of the Declarant, represented by three persons appointed by the Declarant for staggered terms of 3, 2, and 1 year(s) respectively. Until all lots have completed dwelling units, Declarant may re-appoint AC members at the expiration of their term for an additional three years. However, at its option and choice of time, and in accordance with its charter documents and bylaws, Declarant may relinquish full control of the AC to its owner- occupants. After all lots have completed dwelling units, and after expiration of a member's current term, AC members shall be elected by majority vote of the Association members for three year terms. An AC member, including Declarant or its representatives, may be removed by a vote of three-quarters majority of the then Owners' lots plus all of Declarant's lots. In the event of failure to perform for whatever reason, the remaining members of the AC shall have full authority to designate a successor member to fill the remaining term. Neither Declarant, AC, nor any persons acting therefor, shall be liable for any reasonable actions taken by the AC under authorization of the provisions hereof: The AC shall make and retain records of elections of its members. The AC shall maintain records, applications forms, house plans, location plot/site plans and correspondence for a minimum period of ten years after completion of each house or addition or modification. AC members shall not receive compensation except reimbursement of reasonable expenses incurred in the performance of their duties and the Association shall hold them harmless and indemnify them against any action as a result of their official duties.

B. Authority: No structure, including walls, decks, fences and privacy fences, shall be erected, converted, placed, added to or altered on any lot until the construction plans and specifications to include materials to be used and a plan showing the location of the structure have been approved in writing by the Architectural Committee as to adherence with the Eagle Forest Development Guidelines, quality of design and materials, harmony of external design with existing structures, and as to location with respect to other structures planned, to topography and to finished grade elevation. Disapproval of plans and specifications may be for any reason including purely aesthetic reasons, at the discretion of the AC.

9. **APPLICATION AND APPROVAL PROCEDURE:** AC approval may be obtained in parallel to submission of plans to the appropriate agencies. A complete application with two sets of plans shall be submitted to the AC at least fifteen days prior to any meeting of the AC at which the Owner wishes to be heard. If the Owner is uncertain regarding the approval of specific plans, he/she is encouraged to submit preliminary drawings, sketches, and/or specifications and a written request for preliminary review prior to completion of a full set of plans and formal application. Such preliminary reviews are performed on a one-time basis as a courtesy and do not constitute final action by the AC. The AC shall perform final review of formal completed application and approve or disapprove all submissions within sixty days of submittal by returning one set of documents showing the AC's written determination and comments to the Property Owner. If the AC fails to affirmatively respond to any request for approval within such sixty (60) review period, such application and construction plans shall be deemed approved unless the AC requires an extension of up to sixty days in order to receive and review additional technical information or material with regard to the application. Disapproval by the AC for specific reasons will allow applicant to perform a one-time re-submittal of revised plans which address and indicate all changes as requested by the AC. In the event of re-submittal, the AC shall review the re-submitted plans within thirty days of the date of actual re- submittal. Disapproval of the re-submittal allows the Property Owner to appeal to a special meeting of the Association Board upon providing the Association with notice in accordance with the Association's charter documents or bylaws. The Board will render its final decision at the special meeting. In the event of disapproval of the re-submittal, a new application and formal submittal process must be started, including, but not limited to, the tiling of the then current full application fee.



10. CONSTRUCTION APPLICATION AND PROCESSING FEE: An initial non-refundable Construction Application Fee of three hundred dollars (\$300.00) payable to Eagle Forest HOA shall accompany each initial formal submittal of plans. The AC may increase the application fee from time to time without further notice if deemed necessary to cover increases in the cost of processing. Any accumulated unused portion of application fees shall annually be deposited into a discretionary fund to be used to the enforcement of these covenants (the "Enforcement Fund"). Future improvements not part of initial plans or requests for changes to initial plans, such as, but not limited to additions, remodels or alteration shall be accompanied by an application form, a full set of plans and an application fee of one fourth the prevailing full application fee.

11. FORMAL SUBMITTAL: The construction application shall be submitted on an application form provided by the AC with at least the following attachments: A plot/site plan, complete house/structure plans, accessory building plans, the required application fee, and any other supplemental information that may be reasonably requested by the AC to carry out its purpose. The plot/site plan shall show the exact location on the lot of proposed improvements, construction, such as, but not limited to, the house, garage, driveways, earthwork grading, septic system, barns, accessory buildings, fences and privacy fences, even if only contemplated for the future. Exact proposed setbacks from lot lines, measured perpendicular to the lot lines shall be shown. Driveways to the proposed structures, fencing, and plantings of trees and landscaping materials (if any) must be shown in sufficient detail for the AC to make valid judgments of the proposed improvements. The plot/site plan shall show existing and proposed topographic (contour) information at a contour interval of two feet. Preconstruction topographic lot maps are available from the AC, but the Declarant makes no assurances or warranties as to their accuracy. The house/structure/ building submittals shall show details of the floor plans, architectural elevations, and exterior materials and color samples. Samples of new or non-traditional exterior materials may be submitted for evaluation by the AC prior to a request to utilize such materials. The structure(s) location on the lot shall be accurately staked on the lot prior to submittal of the formal application to facilitate an on-site inspection by the AC in conjunction with the review of the application. Meetings: The AC shall meet as a group to discuss, review, and examine submitted plans; furthermore, at least two thirds of the AC members shall make field trips to the lot for site inspection.

12. AUTHORITY OF THE ARCHITECTURAL COMMITTEE: The AC shall resolve all questions of interpretation, and these covenants shall be interpreted in accordance with their general purpose and intent as herein expressed. The AC may require reasonable changes in Property Owner's plans solely for aesthetic reasons. The AC expressly reserves the right to deviate from these covenants if warranted.

13. ARCHITECTURAL DESIGN AND REQUIREMENTS: No building, structure, walls, gates, fences, hedges, entry features, driveways, windbreaks, swimming pools, flagpoles, exterior lighting, and antennas or other improvements of any kind shall be commenced, erected, converted, placed, added to, maintained or altered on any lot until the complete construction plans and specifications, to include design, height, material and color samples to be used and a site/plot plan showing the exact location of the structure(s), have been approved in writing by the AC as to adherence to the Eagle Forest Design Guidelines, materials, harmony of external design with existing structure(s), location with respect to other structures planned, and as to topography and finished grade elevation. This requirement applies to both new construction and to subsequent changes, additions, repainting and major repairs or renovations. This requirement is waived in the case of minor repairs, maintenance or renovation so long as the results resemble and are consistent with



initially approved plans and specifications, as such modifications are made to restore appearance and function to that originally intended. **COLOR:** Structural color schemes shall be subdued, unobtrusive natural earth color. Color samples must be submitted with a complete application. **FACING/SIDING:** Exposed concrete on buildings shall be stuccoed or covered with brick, stone, wood, or other material. Natural wood siding must be treated and periodically maintained with preservative or similar high-quality stain. Clear wood stain shall have at least twenty percent pigment to aid in blocking ultra-violet and infra-red rays, thereby protecting the underlying material. Because of the significant visual and quality impact, the AC will give particular attention to the choice and effect of the structure's facing and siding materials in order to ensure harmony with the rest of the Development. In no event shall the siding be vinyl or metal. Front elevations of homes shall have accent features of either brick or stone unless the structure is log on the front.

14. CHIMNEYS AND OPEN FIRES: Spark arrestors shall be required on all chimneys. Open fires are prohibited.

15. ROOFING: Roofing materials and color shall be consistent with the architecture, color and exterior wall material of any structure. Roofing materials shall conform to local building codes. New and modern materials with shake, tile or slate appearance, and materials consistent with hail/storm resistance are required. Concrete tile or slate roofing materials shall have at least a 30 year life expectancy. Composite Shingles must have at least a 30-year life expectancy. Wood shake shingles are not allowed. The overhang (eaves) of the roof of a structure shall be at least fourteen

(14) inches wide or wider. The minimum roof pitch on all buildings shall be not flatter than a ratio of three (3) vertical to twelve (12) horizontal. Roofs associated with Santa Fe/Southwestern architecture may be allowed on a case-by-case basis provided the structural engineering accounts for snow loads that may occur. Roof mounted solar collectors shall be flush mounted and must be approved by the AC. Roofs shall be non-reflective and fire-resistant.

16. ENERGY FEATURES: Energy efficient designs are encouraged through well scaled and insulated construction and the use of passive solar design techniques. Solar collectors shall be an unobtrusive part of a house or garage structure so that reflections and appearance do not unreasonably defeat the intent of these covenants to maintain a natural environment. Wind driven electric generators or windmills are prohibited.

17. EXTREME DESIGNS: Houses of extreme design may not be approved, it being the intent of these covenants to establish an area of quiet, unobtrusive, harmonious dignity and quality consistent with other homes in Eagle Forest Subdivision.

18. LANDSCAPING, EROSION AND WEED CONTROL: All soils disturbed during the building process will be re-graded to natural grade and covered with six inches of topsoil and seeded with a native grass mix (except as irrigation for landscaping and gardens are allowed pursuant to the Water Decree, addressed in Section 27) within six months of issuance of the occupancy certificate by the Regional Building Department. Property Owners are encouraged to plant and nurture trees that are native to the area and/or can thrive in this climate. Weed control per El Paso County ordinances or recommendations is the responsibility of each individual Property Owner. Additionally, Property Owners shall not allow native or planted grasses to exceed a height of two and a half feet. Property Owners are responsible for proper drainage and erosion control on and across their lot in accordance with Federal, State, and El Paso County requirements, and minimizing erosion, as well as maintenance of erosion control measures within their property boundary, including those provided by Declarant whether or not located within public drainage or slope easements.



19. DRIVEWAYS, EARTHWORK, AND GRADING: Maintenance of driveways is the responsibility of the Property Owner and shall be constructed and maintained at all times in accordance with the requirements established by El Paso County. All driveways shall be covered with a non-permeable surface such as asphalt pavement, concrete or pavers. All earthwork and grading shall be performed in such a manner that disturbance to the lot is minimized. No finished grade shall be more than four feet above or below the existing natural grade. All graded earth cuts or tills shall be sloped no steeper than a ratio of three horizontal to one vertical. No retaining wall shall be constructed in excess of four feet in height. All retaining walls shall be constructed of wood timbers, rock, brick, concrete or concrete block provided that said concrete or concrete block is covered with stucco, stone or brick. Retaining walls shall be shown on the Owner's submitted plans.

20. ANTENNAS: Large television, radio or satellite antennas must be installed in the structure attic. Ground- or building-mounted satellite or microwave antennas must be of small size (approximately eighteen inches or smaller) and may be used only in areas and in such a way as to be unobtrusive. They shall be painted and/or screened to blend in with the natural environment or building structure (for example under wide overhangs or near the chimney). Installation may proceed without prior AC approval; however, violations, as determined by the AC, may result in order to comply with the above.

21. FENCES: Lot perimeter fencing is not required, but if desired, such fencing is subject to the approval of the AC. Generally, perimeter fencing must be attractive; as examples only, no chain link, barbed wire or pig wire fencing shall be allowed. Accent fencing of up to fifty feet (50) on either side of the lot's driveway may be upgraded to four rail with upgraded brick, stucco, stone or

other upgraded posts and/or comers. Existing boundary fencing may be maintained or upgraded at the discretion of the Property Owner and the adjacent property owner, at the Property Owner's expense. Privacy fencing shall be allowed up to but not to exceed an enclosed area of twelve thousand (10,000) square feet. Privacy fencing shall not protrude beyond the building envelope. Allowed privacy fencing materials will be cedar or redwood in natural wood color with pickets up to eight feet in height and six inches in width. Fencing over 6 ft tall may require a building permit.

Painting of privacy fencing will not be allowed, although clear-coat or pigmented staining for weather-protection is encouraged. Dog runs shall be allowed up to but not to exceed an enclosed area of 400 square feet, and a maximum of six feet in height. Dog runs shall be constructed with the same materials as entry accent or perimeter fencing with the addition of wire screen and will not be permitted at the street side of homes. No chain link or similar heavy mesh fencing will be allowed in Eagle Forest Subdivision. All fencing shall be installed in accordance with the limitations specifically set forth in this Section 22 and shall also be subject to the Eagle Forest Design Guidelines and such further restrictions that are contained elsewhere in these declarations (See Section 23 "Easements").

22. EASEMENTS: Easements and/or non-build areas for installation and maintenance of utilities, roadways, irrigation and drainage purposes, and such other purposes incident to development of Eagle Forest Subdivision and the adjoining properties are reserved as shown otherwise on the recorded plat(s). If a purchaser buys contiguous lots, or in the case of adjacent Property Owners where a desire exists to change such easements, such easements may be so changed only with the written approval of the Association, and such easements must still be legally vacated per El Paso County requirements. New fencing or landscape elements may be constructed along property lines; however, such fencing or landscaping elements are subject



- to utility and drainage easements. In the event a utility line or drainage feature requires maintenance, the respective authority may remove the Property Owner's fence or landscape elements for access and maintenance and may not be required to replace such items.

23 NUISANCES: Nothing shall be done on any lot which may be or become an annoyance or nuisance to the Development. The following are example of prohibited nuisances, but this list is intended to be for illustrative purposes and is not intended to be a comprehensive listing of all prohibited nuisances.

- A. No noxious noise polluting or otherwise offensive activities, including eyesores, or commercial business activities (except for commercial business activity on Lot 1 and allowed home occupation uses), or manufacturing activity shall be carried on upon any lot.
- B. Any exterior lighting on any lot shall either be indirect or of such controlled focus and intensity as not to unduly disturb residents of adjacent or nearby property.
- C. No trail bikes, minibikes, mopeds, motorcycles, recreational all-terrain vehicles, snowmobiles or other such noise causing vehicles shall be operated within the Development, except for the normal transit to and from residences.
- D. No activities shall be permitted which will generate a noise level sufficient to interfere with the peaceful and reasonable enjoyment of the persons on any nearby lots. No hunting of any kind by any form or device, nor the discharge of any type of firearm, explosive or fireworks devices shall be permitted.
- E. In no case shall any activity cause noxious or offensive odors, or undue vehicle traffic.

24 OBSTRUCTIONS AT INTERSECTIONS: No fence, wall, hedge, tree, shrub or tree planting or other structure which unduly obstructs line-of-sight shall be placed or permitted to remain on any sharp curve or corner formed by the intersection of a street with another street.

25 REFUSE AND RUBBISH: Rubbish, garbage trash, refuse or other waste shall be kept and disposed of in a sanitary manner. All garbage or trash containers shall be kept at all times (except on days of scheduled garbage pick-up) in an enclosed attached garage or placed in a walled-in area designed to blend with the house so that they shall not be visible from other lots or from public roads. No trash, litter, equipment, boxes, or other such items shall be permitted to remain exposed on any area of a lot that is visible from any other lot or from public road. If after reasonable notice is given, an Owner should repeatedly violate these guidelines concerning refuse and rubbish, in addition to any other remedies, the Association shall have the right to cause such rubbish, trash or garbage to be removed by any appropriate means and to charge the cost thereof to such Owner. In no case shall any garbage cause noxious or offensive odors.

- 26 SIGNS:** All signs, their shape, size, and content must first be approved in writing by the AC except real estate and builder signs which shall not exceed eight square feet in size. Signs are also regulated by the Eagle Forest Development Guidelines. The length of time for mounting signs, other than those for real-estate or residence construction purposes erected for the duration of the related activity, must also be approved in writing by the AC. Entryway development identification signs and marketing signs for Eagle Forest Subdivision may be placed by Declarant and are not subject to this paragraph. Address signs on



- residences are limited to 6 square feet. No exterior advertising or graphics are allowed except for individual temporary sales signs which will not exceed 6 square feet

27. VEHICLE PARKING AND EQUIPMENT: Please refer to the Eagle Forest Development Guidelines for regulations regarding vehicle parking and equipment and outside storage.

28. ANIMALS:

Domestic animal keeping of up to 4 pets excluding chickens, pigeons or bee keeping. The El Paso County Land Development Code has additional restrictions regarding animal keeping.

No animals may be kept or maintained for any commercial purposes or stud services; except that the selling of kittens or puppies born to an owner's purebred pets (i.e., breeds of dogs recognized by the American Kennel Association and of cats recognized by the Cat Fancier's Association, Inc., or other similar organizations) shall not be prohibited, provided that such no more than one litter shall be allowed per lot, per year. Horses riding and horse facilities are prohibited. Dogs will not be permitted to run loose and will be kept fenced in (including by electronic fence) or under leash control of owners at all times. Also refer to Section 22 ("Fencing"). Kennels for the commercial raising, breeding and boarding of animals is prohibited. In no case shall swine of any type, including potbellied pigs, be kept temporarily or permanently. Owners are responsible for all actions of their animals or animals in their care, as well as their waste disposal.

- A. Reasonable requests to own animals under supervised 4-H projects and/or family use will be considered by the Association upon receipt of a written request for approval. The overriding criteria in acceptance or rejection of requests to other animals will be the proposed plan by the Property Owner as to how the animals will be housed and kept from becoming a nuisance to other residents or a danger to the environment.

29. MINERAL RIGHTS: No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in Eagle Forest Subdivision, nor shall oil wells, tanks, tunnels or mineral excavations or shafts, derrick or other structure designed for use in boring for oil or natural gas be erected, maintained or permitted in the Development.

30. WATER RIGHTS:

- A. Water Court Decree and Augmentation Plan. Eagle Forest Subdivision shall be subject to the obligations and requirements as set forth in the Findings of Fact, Conclusions of Law, Ruling of the Referee, and Decree of the Court, decreed in Consolidated Case Nos. 04CW336, District Court, Water Division 1, and 04CW119, District Court, Water Division 2, decreed on November 2, 2005, as recorded at Reception No. 221159158 of the El Paso County Clerk and Recorder, which is incorporated by reference ("Water Court Decree"). The Water Court Decree adjudicated the Denver Basing groundwater rights underlying the Development water rights ("Adjudication") and adjudicates a plan for augmentation to allow for a lawful water supply for each lot within the Eagle Forest Subdivision ("Plan for Augmentation"). The Water Court Decree creates obligations upon the Eagle Forest Subdivision and the Owners, which run with the land. Subject to the terms of this Declaration, the water supply for each lot within the Eagle Forest Subdivision shall be by individual wells to the non-tributary Dawson aquifer. Each Owner will be responsible for the costs of obtaining a permit from



the Colorado Division of Water Resources and drilling an individual well for water service to their residence and lot to the not-nontributary Dawson aquifer and any other wells, and use of such well as consistent with the terms of the Water Court Decree, including wastewater treatment through a non-evaporative individual septic disposal system ("ISDS") for Dawson aquifer well pumping. Each lot served by a Dawson well shall have an occupied single-family dwelling generating return flows from an ISDS before any irrigation or animal watering is allowed from the wells. The Owners will be responsible for reporting and administration based on pumping records, and eventually for replacement of any injurious post-pumping depletions requiring construction of deep wells to the Laramie-Fox Hills and Arapahoe aquifers at such time as all Dawson aquifer pumping ceases as required under the Water Court Decree and Plan for Augmentation.

No party, including the Declarant, guarantees to the Owners the physical availability or the adequacy of water quality from any well to be drilled. The Denver Basin aquifers which are the subject of the Water Court Decree are considered a nonrenewable water resource and due to anticipated water level declines the useful or economic life of the aquifers' water supply may be less than the 100 years allocated by state statutes or the 300 years of El Paso County water supply requirements, despite current groundwater modelling to the contrary. Declarant makes no warranty that the Dawson aquifer contains an amount of water sufficient for a 300 year supply for each lot or Owner.

B. Water Rights Ownership. Declarant will transfer and assign to each Owner a pro rata amount of all Denver Basin groundwater subject of the Adjudication and shall retain none of the Denver Basin groundwater underlying Development. This transfer and assignment shall include Declarant's adjudicated interest to the following:

- i. 0.933 annual acre feet of water for a 300 year water supply for a total of 280 annual acre feet in the not-nontributary Dawson aquifer as the physical source of supply for each Owner's lot. Accordingly, Declarant shall convey to the Owners a total of at least 2,520 acre-feet (0.933 acre-feet/year x 9 lots x 300 years) of Dawson aquifer water. The Dawson aquifer wells on with existing Permit Nos. 168590-A or 168591, which are located on Lot 1, may be repermited for use on Lot 1.
- ii. No less than 1,270 acre feet in the nontributary Laramie-Fox Hills and 1,301 acre feet of the Arapahoe aquifer reserved for replacement of any injurious post-pumping depletions under the terms of the Water Court Decree and Plan for Augmentation.
- iii. All obligations and responsibilities for compliance with the Water Court Decree and Plan for Augmentation shall be transferred to the Owners, including monitoring, accounting and reporting obligations. By this assignment to the Owners, the Declarant is relieved of any and all responsibilities and obligations for the administration, enforcement and operation of the Water Court Decree and Plan for Augmentation. Such conveyance shall be subject to the obligations and responsibilities of the Water Court Decree and Plan for Augmentation. The Owners shall maintain such obligations and responsibilities in perpetuity, unless relieved of such augmentation responsibilities by decree of the Water Court, or properly entered administrative relief.

Each Owner's water rights in the Dawson, Arapahoe and Laramie Fox-Hills aquifers underlying their



respective lot shall encumbered by, and subject to, the Plan for Augmentation shall remain subject to the Plan for Augmentation, and shall, transfer automatically upon the transfer of title to each lot as an appurtenance, including the transfer by the Declarant to the initial Owner of a lot, whether or not separately deeded. The groundwater rights in the Dawson, Arapahoe and Laramie Fox-Hills aquifers conveyed to the Owners or HOA subject of the Plan for Augmentation, including any return flows therefrom, cannot and shall be sold, leased or otherwise used for any purpose inconsistent with the Water Court Decree, Plan for Augmentation, and these Covenants, and shall not be separated from the transfer of title to the land of each lot, and shall not be separately conveyed, bartered or encumbered. The water rights dedicated to the Plan for Augmentation (those portions of the Dawson, Arapahoe and Laramie Fox-Hills) cannot be severable from each respective lot, and each Owner covenants that it cannot sell or transfer such ground water rights to any party separate from the conveyance of the lot.

The water rights part of the Adjudication that are not dedicated to the Plan for Augmentation can be severable from each respective lot. Any water transferred to the Owners not subject to the Plan for Augmentation shall transfer automatically upon the transfer of title to each lot as an appurtenance, unless otherwise expressly reserved by the Owner at the time of conveyance.

C. Water Administration. Each Lot Owner shall limit the pumping of each individual Dawson aquifer well per lot to a maximum of 0.933 acre feet annually (assuming nine lots), or a combined total of 8.4 acre feet annually from the Dawson aquifer. Each Owner shall further ensure that the allocations of use of water resulting from such Dawson aquifer pumping is maintained, as between in-house, irrigation, stock water and other allowed uses. Each Owner with a Dawson aquifer well shall use an ISDS in order to ensure that return flows from Dawson aquifer well diversions are returned to the stream system to replace depletions during pumping of the Dawson aquifer well and shall not be sold, traded or used for any other purpose. The Owners, as the Owners of all obligations and responsibilities under the Water Court Decree and Plan for Augmentation, shall administer and enforce the Water Court Decree and Plan for Augmentation as applies to each Owner's respective lot and pumping from individual Dawson aquifer wells. Such administration shall include, without limitation, accountings to the Colorado Division of Water Resources and taking all necessary and required actions under the Water Court Decree and Plan for Augmentation to protect and preserve the groundwater rights for all Owners. Each Owner has the right to specifically enforce, by injunction, if necessary, the Water Court Decree and Plan for Augmentation against any other Owner for failing to comply with the Owner's respective obligations thereunder, including the enforcement of the terms and conditions of well permits issued, and the reasonable legal costs and fees for such enforcement shall be borne by the party against whom such action is necessary. Failure of a Lot Owner to comply with the terms of the Water Court Decree and Plan for Augmentation may result in an order from the Division of Water Resources under the Water Court Decree to curtail use of groundwater rights.

Each Owner shall promptly and fully account to the Division of Water Resources the amount of pumping from the individual well to the Dawson aquifer on each lot or any other wells, including for any irrigation, stockwater or other permitted/allowed uses as may be required under the Water Court Decree, Plan for Augmentation or Division Engineer. The frequency of such accounting shall be annually, unless otherwise reasonably requested by the Division or Water Resources. The Owners shall provide the Division of Water Resources with accounting for pumping of all wells on an annual basis, unless otherwise reasonably requested by the Division of Water Resources.



At such time as construction of an Arapahoe and Laramie-Fox Hills aquifer wells are required for replacement of post-pumping depletions, the Owners shall be responsible for all cost and expense in the construction of said well, as well as all reasonable reporting requirements of the Division of Water Resources associated therewith.

D. Well Permits. Each Owner shall be responsible for all costs associated with the individual well to the Dawson aquifer for the water supply to their respective lot, including the costs of obtaining a well permit for their lot. All such Dawson aquifer wells shall be constructed and operated in compliance with the Water Court Decree, Plan for Augmentation, the well permit obtained from the Colorado Division of Water Resources, and the applicable rules and regulations of the Colorado Division of Water Resources. The costs of the construction, operation, maintenance and repair of such individual well, and delivery of water therefrom to the residence located on such lot, shall be at each Owner's respective expense. Each Owner shall comply with any and all requirements of the Division of Water Resources to log their well, and shall install and maintain in good working order an accurate totalizing flow meter on the well in order to provide the diversion information necessary for the accounting and administration of the Plan for Augmentation. It is acknowledged that well permits, and individual wells, may be in place on some of the lots at the time of sale, and by these Declarations no warranty as to the suitability or utility of such permits or structures is made nor shall be implied.

The Owners shall be responsible for obtaining any well permits, rights and authorities necessary for the construction of wells to the nontributary Arapahoe and Laramie Fox Hills aquifer for the replacement of any post-pumping depletions required under the Plan for Augmentation and consistent with the Water Court Decree. The Owners shall comply with any and all requirements of the Division of Water Resources to log such wells and shall install and maintain in good working order an accurate totalizing flow meter on the well in order to provide all necessary accounting.

E. Compliance. The owners shall perform and comply with all terms, conditions, and obligations of the Water Court Decree and Plan for Augmentation and shall further comply with the terms and conditions of any well permits issued by the Division of Water Resources, as well as all applicable statutory and regulatory authority.

F. Amendments. Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply or Plan for Augmentation, or the water rights of the Owners without the written approval of said parties, El Paso County, the Board of County Commissioners, and from the Court with proper jurisdiction.

G. Termination. The requirements of this Paragraph 30 shall not terminate unless the requirements of the Water Court Decree are also terminated by order of the Water Court, and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.

H. El Paso County Requirements. El Paso County may enforce the provisions of the Augmentation Plan as set forth in this Declaration, should the Lot owners fail to adequately do so.



31. PRIVATE DETENTION BASIN /STORMWATER QUALITY BEST MANAGEMENT PRACTICE MAINTENANCE AGREEMENT: The Association has adopted this Agreement (PDBSQBMPMA) with El Paso County as an obligation of the Association and is incorporated into these Covenants. The PDBSQBMPMA touches and concerns each and every lot within the Subdivision. Consistent with the PDBSQBMPMA, the Association is obligated to inspect, clean, maintain, and repair the detention basin/BMP(s).

A funding mechanism is in place whereby individual lot owners within the subdivision pay a regular fee to the Association for, among other matters, the inspection, cleaning, maintenance, and repair of the detention basin/BMP(s). Liability imposed under this Agreement against an individual lot owner shall be pro-rated on a per-lot basis as determined by the following formula and illustration: each individual lot owner(s) shall be liable for no more than the total monetary amount of liability multiplied by a fraction in which the numerator is the number of lots in the Subdivision owned by a particular lot owner, and the denominator is the total number of lots in the Subdivision. As to any lot(s) owned by more than one person or entity, the liability among co-owners shall be joint and several for the pro rata obligation of that lot. The application of this Paragraph is best illustrated by the following example. Assume the following parameters: total liability is \$10,000; total number of lots in the Subdivision is 100; Lot 1 is owned by persons A and B; person B also owns Lot 2. Liability is as follows: the Developer, \$10,000; the Association, \$10,000; Lot 1 is \$100.00, joint and several as to A and B, Lot 2 is \$100.00 owed solely by B. Thus, person A's total liability is \$100.00 and person B's is \$200.00. Applying the principle that the County cannot collect more than it is owed, and assuming that the County cannot collect anything from the Developer and the Association, if the County collected the whole \$200.00 from B, then it could not collect the \$100.00 from A. Likewise, if the County collected the \$100.00 from A, then it could only collect \$100.00 from B.

32. TECHNICAL ADVISOR: The AC may retain a non-voting Technical Advisor (TA), experienced in residential site planning, construction, and landscaping, to assist with the management, review and processing of applications and plans for the AC, as well as monitor the construction progress of each project in accordance with approved plans. The TA's compensation for these services will be from the application and processing fee. The TA may also provide consulting services to an applicant for reasonable professional fees prior to applicant's formal submittal of plans. To avoid any appearance of a conflict of interest, the TA shall not consult for a fee with an applicant once plans have been formally submitted to the AC for approval but may consult with an Owner after approval. The TA shall be required to maintain records of his services for both the AC and applicants.

33. ENFORCEMENT: Enforcement of these covenants, conditions and restrictions shall be at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages. Covenants are for use, convenience and protection of all Owners in Eagle Forest Subdivision. Declarant AC, the Association, and individual Owners may act to enforce these covenants; none of the foregoing, however, are obligated to do so. Declarant and the AC together or separately, or through authorized agents or employees further reserve the right, whenever there shall have been an apparent violation of one or more of the provisions of these covenants and after ten days' notice to the Owner, to enter upon the property where such violation exists and summarily abate, remove or cause to be removed the same at the expense of said Owner, and such entry and abatement or removal shall not constitute nor be deemed a trespass. Property Owners in Eagle Forest Subdivision expressly agree to abide



by injunctions without necessity of bond, in order to simplify judicial proceedings to remedy covenant violations. In addition, if a judicial action is necessary to prohibit a covenant violation, and a violation is established, the violator(s) shall pay all costs of the enforcement proceeding, including reasonable attorney's fees. The failure to enforce any right, reservation, restriction or condition contained herein, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach occurring prior to or subsequent thereto, and shall not bar or affect its enforcement. Any non-payment of the Association dues or AC enforcement expenses may result in a recorded lien being placed on the violator's Eagle Forest Subdivision lot, bearing interest at ten percent per annum. The Association is expressly authorized to utilize the Enforcement Fund to accomplish the purposes set forth in this Section.

34. LIABILITY: Neither the Declarant, AC, the Association, or any person acting therefor shall be liable in damages to any person or entity by reason of any action, failure to act, or any other circumstance taken in good faith to meet the intent of these covenants. Further, the Association, in accordance with the provisions of its charter documents and bylaws, shall be entitled to insure against such liability and shall indemnify and hold harmless such persons from and against any personal liability incurred as a result of their performance of their official duties for the Association.

35. SUBDIVIDING: No further sub-dividing is permitted. This provision is not intended to prohibit minor lot line adjustments if agreed to by the owners of all lots which will be affected by the lot line adjustments.

36. WATER SUPPLY: Each Owner is responsible for the permitting and construction of a lot on such owner's lot. The following rules shall apply regarding the use of water in Eagle Forest Subdivision:

- A. Such on-lot wells shall be constructed in the Dawson aquifer. Well permit applications shall limit such each Dawson aquifer well to a maximum diversion rate of 25 gallons per minute, and 0.84 acre foot (273,715 gallons) annually.
- B. At the time of construction of a well fully penetrating the Dawson aquifer, a geophysical well log shall be obtained for such well unless the requirement is waived by the State Engineer pursuant to Rule 9.A, 2 CCR 402-7.
- C. Each Dawson aquifer well may be used for indoor residential uses, and for indoor commercial uses to the extent allowed by these covenants (for drinking and sanitary uses only), for stock water for no more than two horses per lot, for irrigation of no more than 0.2 acre (8,712 square feet) of combined garden and landscaping per lot, and for a hot tub or spa; provided, that any Owner who constructs a permitted accessory living quarters pursuant to Section 2 shall be limited to irrigation of 0.16 acre (7,000 square feet).
- D. Each lot shall use a non-evaporative individual sewage disposal system ("ISDS", commonly referred to as a septic system) for wastewater disposal and treatment. Each ISDS shall be constructed to comply with all relevant rules and regulations of El Paso County, Colorado and the State of Colorado, as applicable. Prospective owners of each individual lot should review the information and findings in the following reports:
 - 1. *Performance Report/Sewage Disposal Evaluation Report - Eagle Forest Subdivision* by Cornell Engineering dated June 15, 2020.



2. The Original *Performance Report/Sewage Disposal Evaluation for Eagle Heights Subdivision*, El Paso County, Colorado, by Front Range Geotechnical, Inc, Job No. 13470, dated January 24, 2005.

- E. Prospective Owners are hereby informed that upon the pumping of 2,970 acre feet of water from the Dawson aquifer, the Association may be required to construct a well in either the Arapahoe or the Laramie-Fox Hills aquifer, or both, and operate such well(s) for the purpose of replacing post-pumping depletions as required by the Water Decree.
- F. Each Dawson aquifer well shall be equipped with a totalizing flow meter at the expense of the owner of the Owner. The meter shall be accessible from outside any buildings. It shall be the responsibility of each Owner to maintain the meter in proper working condition, and to report pumping records to the Association no less than annually, on or about October 31 of each year if only annual reporting is required. The Association shall in turn report all readings to the Colorado Division of Water Resources. However, in the event that any owner fails or refuses to properly maintain the meter or to report pumping records, the Association shall have the right to maintain the meter and to assess the lot owner for any costs associated with such maintenance or repair, and to enter the Owner's lot to read the meter in the event that the Owner fails or refuses to do so in a timely fashion. Notice of any expense incurred by the Association in the enforcement of this Section 36.F. shall be given to the Owner as provided in Section 40, and if payment is not made within 30 days, collection of such expense may be enforced as provided in Section 33.
- G. The Association and the individual Owners shall all be required to comply with all provisions of the Water Decree, as it currently exists or may be amended in the future. Failure to comply with the Water Decree may result in an order from the Division of Water Resources to curtail pumping of the offending well.
- H. The provisions of this Section 36 shall run with and burden Eagle Forest Subdivision. They shall be perpetual in duration and may be altered or amended only in a manner which is consistent with the Water Decree, as it presently exists or may be amended in the future by a court having jurisdiction to approve such amendments, and also only with the prior approval of the Board of County Commissioners of El Paso County.

37. MAILBOXES/NEWSPAPER BOXES: Individual mailboxes at the lots are prohibited. All mail service will be at the joint community mailbox location approved by the United States Postal Service. Individual newspaper boxes, if desired shall be incorporated into entry features approved by the AC.

38. SPECIAL PROVISIONS REGARDING LOT 1: In recognition of the fact certain structures were already present on Lot 1 at the time of the adoption of these covenants, and in light of the additional fact that Lot 1 is separated from the rest of the Lots in Eagle Forest Subdivision by open space, and that Lot 1 had, at the time of adoption of these covenants, more in common with the adjoining properties to the east and west of Eagle Forest Subdivision than with the remainder of the Eagle Forest Subdivision, the following provisions shall apply to Lot 1, notwithstanding any different provisions contained herein in regard to the rest of the subdivision. However, to the extent that an exemption is not provided herein, any provision of the remainder of these covenants which is not contrary to the following Sub-provisions of this paragraph 38 shall apply to Lot 1:



A. Any accessory living quarters constructed on Lot 1 at the time of adoption of these covenants is not required to comply with the AC rules regarding appearance.

B. Construction vehicles including trailers may be parked and stored within sight of the street.

C. The Declarant may conduct commercial operations related to home-building.

39. WILDFIRE MITIGATION: A Wildfire Mitigation Plan has been approved for Eagle Forest as part of the development review process. Owners will be provided a copy of the plan at closing. Compliance with the Eagle Forest Wildfire Mitigation Plan is required for all homeowners. An Owner shall not permit any condition on a lot that creates a fire hazard or is in violation of fire prevention regulations adopted by any governmental authority having jurisdiction and control over outside burning.

40. TERM OF COVENANTS: Except for covenants regarding the Water Decree, which are separately addressed in Section 36, these covenants and restrictions are to run with the land and shall remain in full force and effect for twenty-five years from the date of recording. After such time covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a two-thirds majority vote (one vote per lot, including Declarant's lots) of then Owners has been recorded, changing said covenants in whole or in part; however, covenants may be amended at any time by a two-thirds majority vote (one vote per lot, including Declarant's lots) of all then Owners.

41. NOTICES: Any notice required to be given to any Owner or other person under the provisions of these covenants shall be deemed to have been properly given when mailed by certified mail to the Owner of record of the lot in which the member has an interest at his/her last known address.

42. SEVERABILITY: It is hereby declared to be the intention of the Declarant that the sentences, clauses and phrases of these covenants are severable and if any sentence, clause or phrase of these covenants be declared unconstitutional or invalid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining sentences, clauses or phrases of these covenants since the same have been incorporated herein by the Declarant without the incorporation of any unconstitutional or invalid sentence, clause or phrase.

43. ASSIGNMENT: Declarant, its successors or assigns, may assign any and all of its rights, powers, obligations, duties and privileges under this instrument to any other corporation, association, committee or person. No Owner shall be entitled to assign its rights and obligations under this instrument.

44. RECORDATION: The Declarant shall be entitled to duly record this instrument, and shall cause this instrument to be so recorded, in the property records of El Paso County. Such recordation shall be sufficient evidence that each Owner in the Development is on notice of the restrictions and obligations contained herein, including but not limited to the Association's right to declare and collect appropriate fees and assessments and filed liens on the real property of Owners that fail to timely meet their obligations.

45. HEADINGS: The headings used in this instrument are for descriptive purposes only and shall not be



construed to alter the substantive material contained thereunder.


46. PRESUMPTIONS: The terms of this instrument shall not be construed against anyone party, and in favor of the other, if there is an ambiguity, by virtue of the fact that one party or the other drafted any part or all of the instrument.

47. BINDING EFFECT: This instrument shall be binding upon and inure to the benefit of the Association, the Development, each Owner, and their respective legal representatives, successors and assigns.

48. INTERPRETATION: The conditions and restrictions set forth in this instrument shall be governed by and construed in accordance with the laws of the State of Colorado, without giving effect to any choice of law rule. Venue for any dispute arising hereunder is proper within the county or district courts, county of El Paso, state of Colorado, in the United States of America.

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the day and year first written above.

EAGLE FOREST DEVELOPMENT, LLC,
A Colorado Company



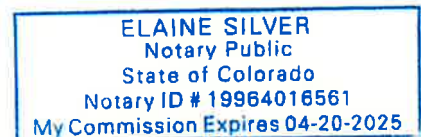
Ty Klikus, Manager

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me on MARCH 8, 20 22, by Ty Klikus, manager of Eagle Forest Development, LLC.

Witness my hand and official seal. My

commission expires: 4/20/2025





Notary Public

