

## **MODIFICATION TO DECLARATION FOR IRON HORSE TOWNHOMES**

Whereas, the Declaration for Iron Horse Townhomes was made and declared on May 15, 2006 by Darter, LLC, a Colorado limited liability company; and

Whereas, the Declaration was recorded on May 26, 2006 at Reception No. 755677; and

Whereas, the Declarant desires to modify the Declaration to clarify the description of the Property and Units contained therein.

### **RECITALS**

A. Declarant and/or Grace Homes Construction, Inc. doing business as Grace Homes Real Estate and Construction, Inc. ("Grace Homes") are the owners of real property located in Montrose County, Colorado known as the Iron Horse Subdivision and described on the Plats thereof as follows:

Filing #1 recorded at Reception No. 755370 of the Montrose County Real Estate Records

Filing #2 recorded at Reception No. 759843 of the Montrose County Real Estate Records

Filing #3 recorded at Reception No. 769817 of the Montrose County Real Estate Records

and referred to herein as the "Property" or the "Properties"

B. Declarant and Grace Homes have created a condominium common interest community in accordance with the Colorado Common Interest Ownership Act, sections 38-33.3-101, et seq., C.R.S., as amended from time to time, and subjected the Properties to the covenants, conditions and restrictions set forth below. All references in the Declaration to a Townhome common interest community shall now be deemed to be a Townhome Condominium common interest community.

C. Declarant and Grace Homes wish to amend these Declarations as specifically set forth below.

### **ARTICLE I. DEFINITIONS**

1.10.1 "General Common Elements" shall mean and refer to all Common Elements except all Limited Common Elements, and may be designated by abbreviation on the Townhome Condominium Map as "GCE", including but not limited to the Townhome Condominium private street and all Townhome Condominium facilities. General Common Elements shall also include all real estate located underneath the Units on Lots 69, 70, 71A, 71B, 71C and 71D.

1.11 Common Interest Community. "Common Interest Community" shall mean and refer to the townhome condominiums created by the Declaration and the Townhome Condominium Map.

1.12 Townhome Map. "Townhome Map" shall now refer to "Townhome Condominium Map" wherever that phrase is used in these Declarations. Townhome Condominium Map shall mean and refer to that part of the Declaration and/or Plats of the Property that depicts all or any portion of the Common Interest Community in three dimensions, meeting the requirements of a land survey plat as set forth in section 38-51-105, C.R.S., and further meeting the requirements of the Act, and shall include any supplements or amendments thereto. Without limitation on the foregoing, the Townhome Condominium Map shall locate and show the dimensions of the vertical and horizontal boundaries of each Unit, including each Unit's identifying number and the Common Elements, including designation of Common Elements. All references to the Townhome Condominium Map shall include Re-Plats of Lots 69, 70, 71A, 71B, 71C and 71D which may be filed by Declarant, including but not limited to the Iron Horse Townhome Condominium, Replat of Lots 71C and 71D filed with the Montrose County Clerk and Recorded at Reception No. 776327.

1.13 Townhome Unit. "Townhome Unit" shall now refer to "Townhome Condominium Unit" wherever that phrase is used in these Declarations. Townhome Condominium Unit shall mean and refer to a Unit together with each Unit's undivided interest in the Common Elements vested in the Unit Owners as set forth in Section 3.5 below.

1.16 Iron Horse Community. "Iron Horse Community" shall now mean and refer to the Iron Horse Single Family Community and the Iron Horse Townhome Condominium Community.

1.26 Condominium. "Condominium" shall mean and refer to a system of separate ownership of individual Units (as defined in Section 1.24 hereof) in a multiple unit building. All Unit owners shall have a right in common to use the general common elements, including the Lot on which the Units are located. Each Owner's separate ownership is confined to their individually designated Unit. The Condominium Units shall be located on Lots 69, 70, 71A, 71B, 71C and 71D on the Property.

### **ARTICLE III. DESCRIPTION OF THE COMMON INTEREST COMMUNITY**

3.1 Name. The name of the Common Interest Community is Iron Horse Townhome Condominiums. The name of the Association is Iron Horse Townhomes Association, Inc., a Colorado non-profit corporation.

3.4 Unit Identifying Numbers and Boundaries. Each Unit's identifying number shall be as set forth on the Townhome Condominium Map. The identification of each Unit's boundaries is shown on the Townhome Condominium Map.

**ARTICLE IV. NATURE AND INCIDENTS OF TOWNHOME OWNERSHIP**

4.1 Estates of an Owner. The Estate of each Owner in a Townhome Condominium Unit shall consist of a fee simple interest in such Owner's Unit together with an undivided percentage interest in the Common Elements in the percentages allocated under Section 3.5 above. The undivided interests in the Common Elements are declared to be appurtenant and inseparable from the Unit.

**ARTICLE V. CONVEYANCE AND DESCRIPTION  
OF A TOWNHOME UNIT**

5.1 Every purchase contract for the sale of a Townhome Condominium Unit written prior to the filing for record of this Declaration and the Townhome Condominium Map shall be effective and binding on the parties thereto if it described a Townhome Condominium Unit by its identifying Unit number or name, and states that such Townhome Condominium Unit will have an undivided interest in the Common Elements appurtenant thereto, as such Townhome Condominium Unit and appurtenant Common Elements shall be designated in this Declaration and the Townhome Condominium Map to be filed for record in Montrose, County, Colorado, and such description shall conclusively be presumed to relate to the corresponding Townhome Condominium Unit reflected thereon.

After this Declaration and the Townhome Condominium Map shall have been filed for record in Montrose County, Colorado, every contract for the sale of a Townhome Condominium Unit and every other instrument affecting title to a Townhome Condominium Unit shall describe that Townhome Condominium Unit by reference to its identification number or name shown on the Declaration and the Townhome Condominium Map, as each shall appear in the records of the County Clerk and Recorder of Montrose County, Colorado, in the following fashion:

Townhome Condominium Unit designated \_\_\_\_\_, as shown on the Townhome Condominium Map for IRON HORSE TOWNHOME CONDOMINIUMS appearing in the records of the County Clerk and Recorder of Montrose County, Colorado, Reception No. \_\_\_\_\_, and as defined and described in that Declaration for IRON HORSE TOWNHOMES, appearing in such records at Reception No. 755677, that Correction to Exhibit A to Declaration for Iron Horse Townhomes appearing in such records at Reception No. 776326 and the Modification to Declaration for Iron Horse Townhomes appearing in such records at Reception No. \_\_\_\_\_

Such description will be construed to describe the Townhome Condominium Map, together with the appurtenant undivided interest in the Common Elements, and to incorporate all the rights incident to ownership of a Townhome Condominium Unit and all the limitations on such ownership as described in this Declaration.

THIS MODIFICATION TO DECLARATION is executed as of the 13 day of July 2007.

DECLARANT: DARTER, LLC, a Colorado limited liability company

By: Terry Lawrence  
Terry Lawrence, Manager

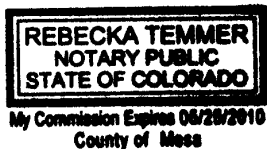
GRACE HOMES CONSTRUCTION, INC. doing business as GRACE HOMES REAL ESTATE AND CONSTRUCTION, INC. a Colorado corporation

By: Terry Lawrence  
Terry Lawrence, President

STATE OF COLORADO ) )ss. COUNTY OF Mesa )

The foregoing instrument was acknowledged before this 13<sup>th</sup> day of July, 2007, by Terry Lawrence, Manager of Darter, LLC, a Colorado limited liability company and Terry Lawrence, President of Grace Homes Construction, Inc. doing business as Grace Homes Real Estate and Construction, Inc.

Witness my hand and official seal. My commission expires: 6/25/2010



Rebecca Temmer  
Notary Public