
**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR CHATFIELD II SUBDIVISION**

THIS DECLARATION is made and declared this 6th day of October, 2004, by TDSM, Inc., a Colorado corporation, hereinafter referred to as "Declarant."

RECITALS

A. Declarant is the owner of certain real property situate in Mesa County, Colorado, - known and described on the Plat attached hereto as Exhibit A and incorporated herein by this reference; hereinafter referred to as the "Properties";

B. Declarant desires to develop and improve the Properties as a planned community as defined in section 38-33.3-103(22), C.R.S., and subject the same to the covenants, conditions and restrictions hereinafter set forth.

C. This Declaration has not been reviewed or approved by Mesa County or any government or quasi governmental entity. Therefore, all alterations of the Properties must comply with applicable zoning requirements, the Mesa County Land Use Development Code, and conditions of approval by the governing municipality, if any.

NOW, THEREFORE, Declarant hereby makes the following declaration of covenants, conditions and restrictions:

ARTICLE I
DEFINITIONS

1.1 "Allocated Interests" shall mean and refer to the common expense liability and the ownership interest and votes in the Association as set forth in Sections 4.3.B. and 5.2 of this Declaration.

1.2 "Architectural Control Committee" shall mean and refer to the Architectural Control Committee referred to in Section 4.6 of this Declaration.

1.3 "Articles" shall mean and refer to the Articles of Incorporation of Chatfield II Homeowners Association, Inc.

1.4 "Association" shall mean and refer to Chatfield II Homeowners Association, Inc., a Colorado nonprofit corporation, formed for the purpose of being and constituting the entity for the

furtherance of the interests of the Owners of property in Chatfield II Subdivision and enforcing the restrictions set forth in this Declaration.

1.5 "Board" shall mean and refer to the Executive Board of the Association.

1.6 "Building" shall mean and refer to any Building, including all fixtures and improvements thereto, situate on the Properties.

1.7 "Bylaws" shall mean and refer to the Bylaws of the Association.

1.8 "Common Elements" shall mean and refer to all of the Properties, including any Improvements thereto.

1.9 "Declarant" shall mean and refer to **TDSM, Inc.**

1.10 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions.

1.11 "Development Rights" shall mean and refer to any right or combination of rights reserved by Declarant as set forth in Article VI of the Declaration.

1.12 "Improvements" shall mean and refer to any and all Buildings, parking areas, fences, screening fences, retaining walls, stairs, decks, hedges, windbreaks, plantings, trees, shrubs, signs, objects of art, mailboxes, irrigation facilities such as pumps, pipelines and sprinklers and other structures or landscaping of every type and kind situate on the Properties.

1.13 "Lot" shall mean and refer to that part of the Properties owned in fee simple by the Owners. The boundaries of each Lot, and an identifying number for each Lot, are reflected on the map attached hereto as Exhibit B. Additional Lots may be created by Declarant as provided in Article VI below.

1.14 "Member" shall mean and refer to a person or entity which is a member of the Association.

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

1.16 "Plat" shall mean and refer to that certain plat of the Properties to be recorded in the Mesa County Clerk and Recorder's official records.

1.17 "Colorado Common Interest Ownership Act" shall mean and refer to Colorado Revised Statutes, Title 38, Article 33.3, as the same may exist on the date that these Covenants are recorded, and as the same may be amended from time to time hereafter, or any statute of similar effect.

1.18 "Properties" shall mean and refer to all of the real estate situate within the area described in Exhibit A.

ARTICLE II GENERAL DECLARATION

2.1 Intent. By making the Declaration hereunder, Declarant specifically intends to enhance, perfect and preserve the value, desirability and attractiveness of the Properties and, to provide for the maintenance of the Common Elements, Improvements and Buildings thereon in a manner beneficial to all Owners.

2.2 Estate Subject to Declaration. By this Declaration, Declarant expressly intends and does hereby subject the Properties to the provisions of the Declaration. All easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant, running with the land and shall at all times inure to the benefit of and be binding upon any person having at any time any interest or estate in the Properties, and their respective heirs, successors, representatives or assigns. Reference in any deed of conveyance, lease, mortgage, deed of trust, other evidence of obligation or any other instrument to the provisions of this Declaration shall be sufficient to create and reserve all of the easements, restrictions, conditions, covenants, reservations, liens, charges, rights; benefits and privileges which are granted, created, reserved or declared herein as though fully and completely set forth in their entirety in any such document.

2.3 Owners' Rights to Common Elements. Every Owner shall have a right and easement of enjoyment in and to the Common Elements which shall be appurtenant to and shall pass with the title to every Lot subject to the provisions of this Declaration and the Articles and Bylaws of the Association. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Elements and facilities for the members of his family, his tenants, or contract purchasers who reside on the Properties.

2.4 Recording Data. The recorded easements and licenses appurtenant to, or included in, the Chatfield II Subdivision, or to which any portion of Chatfield II Subdivision may become subject by virtue of a reservation herein will be found on the Plat to be recorded in the Mesa County Clerk and Recorder's Records. These easements include, but are not limited to, an easement for public use of a trail system over a portion of the Common Elements, a temporary construction

ingress and egress easement, irrigation water access easements, utility easements and multipurpose easements.

ARTICLE III
RESTRICTIONS ON USE

3.1 Building Restrictions.

A. Multi-level structures shall contain no less than a total of one thousand six hundred (1,600) square feet floor area, with a main floor of no less than one thousand one hundred (1,100) square feet, exclusive of open porches, open patios or garages, and shall be subject to approval of the Architectural Control Committee.

B. Single family structures and patio-home structures and attached structures shall contain no less than eleven hundred (1,100) square feet floor area, exclusive of open porches, open patios and garages, and shall be subject to approval of the Architectural Control Committee.

C. All homes shall have stucco exteriors. Brick or stone accents may be allowed subject to the approval of the Architectural Control Committee.

D. All homes shall have an eave height of a minimum of 9' - 0" above top of finished first floor height.

E. The top of all concrete foundations shall be a minimum of 6" above top of sidewalk.

F. All Buildings shall use architectural style roof shingles with a minimum 25-year warranty or tile roof material. All other roof material is subject to the approval of the Architectural Control Committee.

G. Exterior colors shall be of earthen tones.

H. A majority vote of the Architectural Control Committee is required for approval or denial of all proposed improvements.

I. All principal Buildings have a two (2) car garage or greater and shall consist of a minimum of four hundred eighty (480) square feet. The third bay of any three-car garage shall be offset at least two (2) feet from the other garage bays.

J. Roof pitch for all residences shall have at least a 4/12 pitch and have multiple gables and/or hips. No four-sided tract-style homes shall be allowed. Multiple roof elevations and more than four corners to the house shall be required.

K. Once the construction of the home has begun, construction of the home must be completed and a certificate of occupancy must be obtained within six (6) months.

L. All roof maintained evaporative coolers shall be located over the rear portion of the dwelling and shall be mounted so the top portion of the cooler is not visible from the street. The Architectural Control Committee may grant a variance where such requirements cannot be met due to technical constraints. Ground mount air conditioning units allowed, location to be approved by the Architectural Control Committee

M. No metal storage sheds allowed. Storage sheds shall be the same color as the residence.

N. All gas and electrical meters and utility panels shall be located at least three (3) feet back from the front corners of the principle dwelling building.

O. All down-spots on structures shall direct water away from neighboring properties toward run-off grades, as possible, as approved by the Architectural Control Committee

P. Chatfield II Subdivision is located in Mesa County and is zoned RSF-5. All Buildings shall meet or exceed Mesa County setback standards and requirements. No structure of a temporary character, trailer, teepee, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

Q. All exterior building materials used must be approved by the Architectural Control Committee. Only pre-textured composite asphalt shingles or tile roofing are permitted. Exterior siding shall be stucco. The use of four (4) foot by eight (8) foot sheet siding is prohibited. Logs and log siding are prohibited. Exterior color scheme must blend with the natural surroundings of the area. Samples of material and colored chips are to be included at the time of planned submittal for the Architectural Control Committee review with a \$25.00 non-refundable fee accompanying submittal package. Any variance must be approved by the Architectural Control Committee. The wall surfaces of the front elevation of the structure are those which lie along the same general axis as the street and which are not immediately adjacent to a side or rear of the Lot. One hundred percent (100%) of front shall be stucco with stone accent requiring a three (3) foot wrap at both sides.

R. An Owner shall not change, modify, paint, decorate, alter or in any way make any change to any exterior wall, surface, roof, deck, patio, entry, landscaping, paving, trees, shrubbery or other Improvements without the approval of the Architectural Control Committee.

S. Outbuildings shall be constructed of the same materials and exterior finishes as the primary structure and shall resemble the primary structure in architectural style. Location of outbuildings shall be to the rear of the primary structure and shall be subject to the same setbacks as the primary structure. No outbuildings shall be constructed prior to written approval from the Architectural Control Committee as to location, size, use and materials.

3.2 Maintenance of Lots, Buildings, Improvements and Common Elements.

A. The Owners shall keep, maintain and repair their Lots, Buildings and Improvements, including landscaping and vegetation in a neat, clean, cultivated, attractive and well maintained condition, free from the accumulation of trash or debris or visual deterioration. In the event the Owners fail to keep, maintain or repair their Lots, Buildings or Improvements in accordance herewith, the Association shall conduct such maintenance, repairs or restoration and assess the cost thereof to the Owner(s) on whose Lot, Building or Improvements the maintenance or repairs were conducted as a reimbursement assessment pursuant to Section 5.4 hereof.

B. The Owners shall not cause or permit any damage, deterioration or the accumulation of trash and debris upon the Common Elements.

C. The Common Elements shall be owned in common by all of the Owners of the Lots and shall remain undivided. By the acceptance of his or her deed or other instrument of conveyance or assignment, each Owner specifically waives his or her right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Elements. Each Owner agrees not to institute any action therefor. Furthermore, each Owner agrees that this section may be pleaded as a bar to the maintenance of such an action. A violation of this provision shall entitle the complying Owner to personally collect, jointly and severally, from the parties violating the same, the actual attorneys' fees, costs and other damages the complying Owner incurs in connection therewith. Further, all Owners covenant that they shall neither by act nor omission seek to abandon, subdivide, encumber, sell or transfer the Common Elements without first obtaining the written consent of fifty-one percent (51 %) of the Owners of the individual Lots and without the consent of the Mesa County Department of Planning and Development. Each such Owner shall have one (1) vote for each Lot owned by it. Any such action without the written consent of such Owners shall be null and void.

D. Each Owner shall be entitled to exclusive ownership of his or her Lot. Each Owner may use the General Common Elements in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other Owners.

E. Some Lots are subject to a twenty foot (20') landscape buffer zone as shown on the recorded Landscape Plan. Each Lot Owner whose lot is encumbered by the landscape buffer zone shall be responsible for installing and maintaining any one of the three approved buffer zone landscaping details. Lots that require such landscaping are as follows: Block 1, Lots 1-7; Block 2, Lots 1-9; Block 3, Lots 2-4; Block 4, Lots 6-9; Block 5, Lots 4-10; Block 6, Lots 1-10; Block 8, Lots 1-7; and Block 9, Lots 1-10. Failure to install and maintain the required landscaping, including but not limited to eight foot cedar fencing as shown on the Plan, shall be a violation of this Declaration and subject to enforcement by the Association. Further, some of the Lot Owners that fall within the buffer zone landscape requirement are required to maintain the buffer zone landscaping and fencing after installation of an eight-foot cedar fence on the Lots as shown on the Plan.

F. No Lot shall be used as a dumping ground for rubbish. No garbage, rubbish or trash shall be allowed to accumulate on any Lot or the Common Elements. All garbage, rubbish and trash shall be placed and kept in covered containers. All containers shall be kept within garages or enclosed backyards so as to not be visible from neighboring property, except to make the same available for collection during regular trash collection days, and then only for a period of from 7:00 A.M. through 8:00 P.M.. on such trash collection day.

G. No elevated tanks of any kind, including but not exclusively oil, gas, and water tanks, shall be permitted.

H. The Association or Declarant, upon the failure of the Owner of any Lot, to maintain his/her Lot and Improvements, including the payment of any taxes assessed thereon, in a reasonable satisfactory manner as determined by the Association, or upon use by the Owner in a manner inconsistent with these covenants, may enter upon the site and repair, maintain, rehabilitate, and restore the Lot and/or Improvements, or abate the improper use, or pay the taxes thereon, and any costs incurred shall be charged against the Owner of said Lot and collected in the manner set forth in Article V hereof.

I. Driveways shall be surfaced with a hard surface such as concrete.

3.3 Home Occupations and Offensive Activities.

A. No Lot or Building may be used for commercial purposes of any type whatsoever excepting for home occupations as permitted by Mesa County or the governing entity. For purposes of this section, "home occupations" shall mean an occupation by the resident conducted entirely within the residential building which does not entail the employment of third persons on the premises, does not entail the delivery of goods or services to customers upon the premises, and does not entail visits by customers to the premises. For example, but not by limitation, an insurance agent may use his residence as a personal office so long as his customers are not permitted to come to the residence; however, the establishment of a barber shop or a beauty shop would be prohibited.

B. No obnoxious, offensive, or other activity which would constitute a public or private nuisance or annoyance to the neighborhood shall be permitted, including, but not limited to, the repair of automobiles other than minor tune-ups performed by an Owner on his own vehicle.

C. No firearms, illegal fireworks, explosives, air rifles, BB guns, crossbows or similar devices shall be discharged on the Properties.

3.4 Restrictions on Occupants and Pets.

A. At no time shall any single family residence be occupied by more than one family.

B. No animals shall be allowed other than domestic pets. Not more than two (2) dogs and not more than any three (3) pets in cumulative total (including dogs) shall be kept on the premises and only then if they are kept solely as household pets for private use and not for commercial purposes. No such animal may be kept which is a nuisance or annoyance to other Owners' property. Household pets shall be contained on their Owner's property or on a leash and not permitted to run loose. At the request of any Owner, the Board of the Association shall determine whether a particular animal shall be considered a household or yard pet, a nuisance, or whether the number of any such animals on any Lot is in compliance. Habitually barking dogs and vicious breeds are prohibited, at the sole discretion of the Association. Household pets shall be kept and raised only for private use and not for commercial purposes. No horses or livestock of any type shall be kept on any Lot. Household pets shall be under the control of their owners at all times.

3.5 Parking.

A. All residences shall be constructed so as to provide sufficient off street parking to accommodate not less than four automobiles.

B. No Lot roadway or easement shall be used as a parking, storage or accommodation area for any type of junk vehicles or vehicles under repair. Only those cars and trucks incidental to residential family use will be permitted within the Subdivision. Recreational vehicles shall be screened by fences, plantings or otherwise kept from public view. Fences approved by the Architectural Control Committee per the guidelines of Section 3.8 shall be deemed to meet this requirement.

C. No vehicles, boats, campers, trailers, snowmobiles, motorcycles or other recreational vehicles, devices or equipment, or vehicles used for business (other than normal passenger-type vehicles) shall be stored or permitted to remain on the premises unless garaged, placed in an Architectural Control Committee-approved outbuilding or screened storage facility, and parked no closer to the front line of the Lot than the Building on the Lot which is closest to the front line of the Lot. Recreational vehicles, boats and trailers shall not be parked on the streets adjacent to each Lot.

3.6 Landscaping.

A. During the course of construction, all precautions shall be taken to provide for a minimum disturbance of the land. To preserve and enhance the neat character of the Chatfield II Subdivision area, native landscaping is encouraged.

B. Each Owner shall grade, landscape and plant those portions of their Lot not graded, landscaped or planted on the date such Lot was first conveyed to the Owner by Declarant within one (1) year after completion of construction of any Building on the Lot. All grading, landscaping and planting performed or conducted by the Owner shall be first approved by the Architectural Control Committee, and once installed in accordance with the approval of the Architectural Control Committee shall not be changed from its appearance. All vegetation shall be properly cultivated (including watering) and neatly trimmed, garbage and weed free at all times. All Lots require landscaping maintenance and the Lots that fall within the buffer zone are as follows: Block 1, Lots 1-7; Block 2, Lots 1-9; Block 3, Lots 2-4; Block 4, Lots 6-9; Block 5, Lots 4-10; Block 6, Lots 1-10; Block 8, Lots 1-7; and Block 9, Lots 1-10. Should the Owner of any Lot fail to comply with landscaping guidelines asset forth herein, the Association may, at its sole discretion, cause such landscaping to be completed upon subject Lot and assess the Owner for all costs incurred.

C. No Owner shall remove, alter, injure or interfere in any way whatsoever with any tree, shrub or other landscaping or Improvement placed upon the Properties by Declarant or the Association.

D. No tree, shrub or planting of any type shall be permitted to overhang or otherwise encroach upon or above any easement created pursuant to this Declaration or the Replat such as to hinder, or interfere with the purposes for which such easement was created.

3.7 Signs. No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than four (4) square feet, a sign of not more than five (5) square feet advertising the Lot for sale or rent, or signs used and erected by a builder to advertise the Property during the period when construction and sales of any dwelling occur. Signs on the Common Elements are governed by the Association.

3.8 Fences. To preserve the open nature and to maintain the scenic views for the benefit of all Owners, no fence shall be erected on a Lot without the approval of the Architectural Control Committee. Except as provided in Section 3.2.E., fences six (6) feet in height or less will be considered for placement at any location on the Lot. All fences shall be of wood, six foot (6') cedar as approved by Architectural Control Committee, except that wire mesh may be used for the purpose of kennel space for household pets or to be attached to open wood facing located on the Lot.

3.9 Miscellaneous.

A. No Lot shall be used in any manner whatsoever to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substances or other mineral of any type.

B. All facilities for permanent utilities service shall be kept or maintained underground, or in the original condition at such time the Lot and Improvements thereupon are first conveyed to the Owner by Declarant.

C. No antenna for transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained out of doors, except as shall be permitted by the Architectural Control Committee.

D. No hunting, shooting, trapping or harming of wildlife shall be permitted, it being the intent to conserve and protect all wildlife to the utmost.

E. No recreational vehicles, motorcycles, dirt bikes, off-road vehicles, etc.. shall be operated in the development at any time except for ingress and egress to and from the development and upon established roads.

3.10 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents and contractors of improvements, structures or signs necessary or convenient to the development, sale, operation or other disposition of the Lots or Improvements situate within the Properties, provided that this exemption shall not be interpreted to impose limitations on the power of the Association to deal with Declarant that are more restrictive than the limitations imposed on the power of the Association to deal with other persons.

ARTICLE IV THE ASSOCIATION

4.1 Purpose and Membership By acceptance of a deed to a Lot, each Owner shall be a member of the Association, which is a Colorado nonprofit corporation, organized for the general purpose of being and constituting an entity for the furtherance of the mutual interests of the Owners of the Properties pursuant to this Declaration and the Articles and Bylaws, including without limitation, enforcement of the Declaration; owning, repairing and maintaining the Common Elements; maintenance and use of any Lots, Buildings and Improvements; levying and enforcing assessments to defray the cost and expenses of operation; and, providing other utilities and services pursuant to the Articles and Bylaws. This is a Colorado Common Interest Community as defined by the Colorado Common Interest Community Act. The business of the Association will be conducted according to the Act.

4.2 Directors of the Association. The affairs of this Association shall be managed by a board of three (3) Directors (the "Board") initially. When Declarant relinquishes control of the Board to the Owners pursuant to Section 4.3.C., below, the Board shall be managed by at least three (3) directors. Directors shall meet the qualifications described in the Articles of Incorporation and Bylaws of the Association.

4.3 Voting Rights.

A. A membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

B. The Association shall have one class of voting membership, each Owner being entitled to vote one vote for each Lot owned upon matters subject to vote by the Members as provided in the Articles and Bylaws of the Association. A vote for each Lot shall be exercised as the Owner determines, but in no event shall more than one vote be cast with respect to any Lot.

C. From date of formation of the Association until the termination of Declarant's control as provided below, Declarant shall have the right to appoint and remove all members of the Board" and" all officers of the Association. The period of Declarant's control of the Association shall terminate upon the first to occur of either sixty (60) days after conveyance of seventy-five percent (75%) of the Lots to Owners other than Declarant or two (2) years after the last conveyance of a Lot by Declarant in the ordinary course of business. Declarant may voluntarily surrender the right to appoint and remove officers of the Association and members of the Board before termination of the period of Declarant's control, but in that event Declarant may require, for the duration of the period of Declarant's control, that specified actions of the Association or Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots that may be created to Owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Board must be elected by Owners other than Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots that may be created to Owners other than Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Board must be elected by Owners other than Declarant. Within sixty (60) days after Owners other than Declarant elect a majority of the Board, Declarant shall deliver to the Association all property of the Owners and the Association held or controlled by Declarant, including, without limitation, those items specified in section 3833.3-303(9), C.R.S. (1997).

4.4 Limitation Upon Liability.

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

B. Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Properties, the Association shall not be liable for injury or damage, other than the normal costs of the maintenance and repair, caused by any latent condition of the Properties or by the conduct of other Owners or persons or by

casualties for which insurance pursuant to this Declaration is not required, or for which insurance is not provided by the Association.

4.5 Association Insurance. The Association shall be required and empowered to obtain and maintain the following insurance so far as such insurance coverage is obtainable:

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

B. Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements. Declarant shall be included as an additional insured in such Declarant's capacity as an Owner and Board Member. The Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties.

C. Insurance policies carried pursuant to both immediately preceding subsections of Section 4.5 must provide that:

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

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

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

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

D. Workers' Compensation coverage upon employees.

E. Such other insurance as the Board may deem desirable for the benefit of the Owners.

4.6 Architectural Control Committee.

A. No Building or exterior Improvement of any kind shall be erected, placed or altered on any Lot until the construction plans and specifications, and a plan showing the location of the structure or Improvement, have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of exterior design with existing structures, and as to location with respect to topography and finished grade elevation all to be in conformity with this Declaration, including, but not limited to, the requirements set forth in Section 3.1.

B. The Architectural Control Committee shall consist of three (3) persons to be appointed by the majority of the Board. The method and manner of the Architectural Control Committee's appointment, replacement and removal, as well as method of operation, to the extent not provided herein, shall be as set forth in the Articles and Bylaws of the Association.

C. No Improvement, including Owners' landscapings, shall be installed, erected or altered within the Properties except upon the prior written consent and approval of the Architectural Control Committee.

D. Duplicate copies of plans and specifications relating to an Improvement shall be submitted to the Architectural Control Committee for review and final approval. Plans and specifications shall contain, without limitation, the plot plans showing layout, including setbacks, flow and manner of surface drainage, finish and natural grade elevations, floor plans showing overall dimensions, roof plans showing pitch, roof materials, color, exterior elevations showing doors, windows and exterior materials and colors, and a perspective sketch if requested, and other details necessary to explain any feature or component of the Improvements.

E. The Architectural Control Committee's approval or disapproval as required in this Declaration shall be in writing. In the event the Architectural Control Committee, or its designated representative, fails to approve or disapprove within fifteen (15) days after sufficient plans and specifications have been submitted to it, approval will not be required, and the related covenants shall be deemed to have been fully complied with. Two complete sets of finished plans and specifications for construction shall be submitted at time of application, one copy of which will be retained by the Architectural Control Committee for its records. Approval or disapproval as required in this Declaration shall be determined by majority vote of the members of the Architectural Control Committee.

F. The Architectural Control Committee and the members thereof shall not be liable for damage to any person submitting requests for approval or to any Owner within the Properties by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such request. The actions of the Architectural Control Committee shall be deemed conclusively binding upon the Owners.

G. Neither the members of the Architectural Control Committee, nor such representatives as it may designate, shall be entitled to any compensation for services performed pursuant to this Declaration.

H. In addition to all the other criteria herein set forth, the Architectural Control Committee shall generally determine whether the proposed Improvement will protect the then value and future values of the Properties then located in the Subdivision and to be erected therein. The Architectural Control Committee shall, in the exercise of its judgment and determination, use reason and good faith. Among the other considerations applied, the Architectural Control Committee will determine and base its approval or rejection upon the fact of whether said proposed Improvements are reasonably compatible with other Improvements erected and planned in the Subdivision. The Architectural Control Committee shall evaluate the proposed construction as to location of the Property, harmony of exterior design, materials and colors with existing dwellings and surroundings, finished grade evaluation and other criteria as it deems necessary for the purposes set forth in this paragraph.

4.7 Ownership and Maintenance.

A. The ownership, maintenance, repair and restoration of the Common Elements, together with Improvements thereon, shall be vested solely in the Association. The costs and expenses incurred for the purpose of owning, maintaining, repairing and restoring the Common Elements and Improvements thereon shall be borne by the Owners as a regular assessment as provided in Section 5.2, hereof.

B. The Association shall further be charged with the maintenance, repair and restoration to any Improvement situate on any Lot provided the Owner thereof fails to repair, restore or maintain the same. The costs and expenses thereof shall be borne by such Owner as a reimbursement assessment as provided in Section 5.4, hereof.

4.8 Association Water.

A. All irrigation water to be furnished to the Properties shall be furnished by the Association. All Owners of Lots with lawns shall be required to install sprinkler systems to maintain their lawns. The Association shall have the right to limit the use of irrigation water

as it determines in its sole discretion to the Lots and Common Elements and may institute and enforce rules regarding which days irrigation water may be used for any given Lot.

B. The irrigation facilities to be owned by the Association shall consist of a system of pipes and pipelines as to provide irrigation water to the Common Elements and all Lots. The irrigation facilities, including any easements in connection therewith, shall be solely owned, operated and maintained by the Association.

C. It shall be the obligation of the Association to own, operate, maintain and repair the irrigation facilities for the distribution of water to the Common Elements and all Lots. Owners shall be responsible for operation and maintenance and repair of the sprinkler system installed on their lot.

D. The Association shall have an easement across all Common Elements and Lots as reasonably necessary to operate, maintain, and repair the irrigation facilities.

4.9 Duty of Association. The Association shall have the duty of maintaining and repairing all of the Common Elements within the Subdivision. The cost of all such maintenance shall be a common expense to all of the Owners. The Association shall not be required to obtain the prior approval of the Owners to cause such maintenance or repairs to be accomplished, regardless of the cost thereof.

4.10 Specific Powers and Duties of the Association. In addition to all other rights, duties, privileges and liabilities of the Association, as provided by this Declaration and the Articles of Incorporation and Amendments, the Association shall have the following specific powers and duties and shall provide to the Owners the following services, all of which shall be paid as part of the common expense assessments.

A. Maintenance, repair and restoration of the Common Elements, except only as otherwise provided.

B. The obtaining and maintaining of all required insurance as provided herein.

C. Collection of assessments for irrigation water and maintenance and repair of the irrigation system.

ARTICLE V
ASSESSMENTS

5.1 Owner's Obligation. By accepting a deed to any Lot, each Owner agrees to pay to the Association all the assessments, to be fixed and levied from time to time as provided in the Declaration, the Articles and Bylaws. Such assessments, together with interest accruing thereon and the costs of collection in the event of a delinquency of payment, shall be the personal obligation of the person who is the Owner, or the persons who are jointly and severally the Owner, at the time the assessment was made.

5.2 Regular Assessments.

A. At least thirty (30) days prior to the commencement of each fiscal year, the Board shall estimate the cost and expenses to be incurred by the Association during such fiscal year in performing its functions, and shall subtract from such estimate an amount equal to the anticipated balance (exclusive of any reserves) in the operating fund at the start of such fiscal year which is attributable to the operation and maintenance assessments for the prior fiscal year. The annual assessments made for common expenses shall be based upon the advance estimate of the cash requirements by the Association to provide for the payment of all common expenses growing out of or connected with the maintenance and operation of the Common Elements, which sums may include, among other things, expenses of management, taxes and special assessments, premiums for all insurance which the Association is required or permitted to maintain, landscaping and care of grounds, common lighting and heating, repairs and renovations, legal and accounting fees, management fees, expenses and liabilities incurred by the Association under or by reason of this Declaration, the Articles of Incorporation and the Bylaws of the Association, any deficit remaining from a previous assessment, the creation of a reasonable contingency or other reserve or surplus fund and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners. Subject to Section 5.2.B. hereof, the sum or net estimate so determined shall be assessed to the Owners as an operation and maintenance assessment by dividing the total estimate by the total number of single family residential Lots and assessing the resulting amount to the Owner of each Lot. Assessments shall be paid in one (1) annual installment due on or before the 10th day of each January.

B. Within ten (10) days after adoption of any proposed budget for the Association, the Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting a majority of all Owners reject the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Owners

must be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

5.3 Special Assessments. If at any time during the fiscal year the regular assessment proves inadequate for any reason, including nonpayment of any Owner's share thereof, the Board may levy a further assessment in the amount of such actual or estimated inadequacy. The special assessment shall be assessed to the Owners by dividing the total estimate by the total number of residential Lots and assessing the resulting amount to the Owner of each Lot, such assessment to be paid either in equal monthly installments over the balance of the remaining fiscal year, or in a lump sum upon billing as the Board shall determine.

5.4 Reimbursement Assessment. The Board may levy an assessment against any Owner as a result of such Owner's failure to landscape his Lot, including a sprinkler system, rebuild damaged Improvements or to restore or maintain his Lot or the Improvements situate thereon. Such assessment shall be for the purpose of reimbursing the Association for its actual costs and expenses incurred for the repair, maintenance or restoration of such Owner's Lot or Improvements, and shall be due and payable to the Association when levied.

5.5 Reserve Fund. The Association may establish a reserve fund for the maintenance, repair and replacement of the Common Elements. The amount of such fund shall be determined by the Association and shall be funded through annual payments of the common assessments and shall be held by the Association in a separate account, which may be an interest-bearing account, to be held in trust for the Owners for such purposes.

5.6 Capital Improvements. In addition to regular and special assessments, the Association may levy, in any assessment year, a special assessment for the purposes of defraying in whole or in part the cost of any capital Improvement upon the Common Elements, including fixtures, landscaping or personal property related thereto, provided that such assessment shall have the assent of a majority of the members of the Association subject to the assessment.

5.7 Enforcement. In the event any assessment is not paid when due, the Association may enforce payment of such obligation by any or all of the following remedies:

A. The Association may elect to accelerate and declare immediately due and payable the remaining balance of regular or special assessments for such fiscal year.

B. The Association may bring a suit at law to collect the delinquent assessments, including any accelerated assessment. Any judgment rendered in such action shall include a sum for costs of suit, including a reasonable attorney's fees.

C. All delinquent assessments shall be a lien on the Owner's Lot to which the provisions of section 38-33.3-316, C.R.S. (1993), shall apply.

D. Beginning with second month of delinquency, a five percent (5%) penalty will be added to all delinquent amounts each month until payments are current.

5.8 Out-of-State Owners Who Are Not Occupants. In the event an Owner shall not occupy his residence and shall further maintain his principal residence outside of the State of Colorado, the Board may, to insure and guarantee payment of the assessments provided herein, require such out-of-state Owner who does not occupy his residence to:

A. Post a surety bond with the Association indemnifying the Association against the default of such Owner in the payment of any assessment levied herein, the amount of such surety bond to be twice the amount of the regular assessment for the preceding fiscal year; or

B. Pay the regular assessment pursuant to Section 5.2 hereof in advance by the 10th day of the first month of the fiscal year; or

C. Either or both of the immediately preceding subsections of Section 5.8 hereof.

ARTICLE VI RESERVATION OF EXPANSION AND DEVELOPMENT RIGHTS

6.1 **Expansion Rights.** Declarant expressly reserves the right to subject all or any part of the property described in Exhibit C attached hereto and hereby incorporated by reference (the "Development Property") to the provisions of this Declaration upon the substantial completion of improvements on the Development Property. The consent of the existing Owners or mortgagees shall not be required for any such expansion, and Declarant may proceed with such expansion without limitation at its sole option.

6.2 **Development and Withdrawal Rights.** Declarant expressly reserves the right to create or construct additional Lots, Common Elements and limited common elements (the "Additional Improvements") to subdivide Lots and to convert Lots into Common Elements on all or any portion of the Property reserved for future development in the Declaration or on the map. Declarant may exercise its Development Rights on all or any portion of the reserved property in whatever order of development Declarant, in its sole discretion, determines. If all or any part of the Development Property is submitted to this Declaration, this right to reserve property for future development shall apply to such property as well. Declarant expressly reserves the right to withdraw all or any portion of the Property that is reserved for future development in the Declaration or on the map from the

Chatfield II Subdivision project by recording a document evidencing such withdrawal in the office of the clerk and recorder of the county where the property is located; provided, however, that no portion of the property has been conveyed to a purchaser. The property withdrawn from the Chatfield II Subdivision project shall be subject to whatever easements, if any, are reasonably necessary for access to or operation of the Chatfield II Subdivision project. Declarant shall prepare and record in the office of the clerk and recorder of the county where the property is located whatever documents are necessary to evidence such easements and shall amend the Declaration to include reference to the recorded easement.

6.3 Amendment of the Declaration. If Declarant elects to submit the Development Property, or any part thereof, or Additional Improvements, to this Declaration or to subdivide or to convert Lots at such time as construction of the improvements on the Development Property or the Additional Improvements are substantially complete, Declarant shall record an amendment to the Declaration reallocating the Allocated Interests so that the Allocated Interests appurtenant to each Lot will be apportioned according to the total number of Lots submitted to the Declaration. The Allocated Interests appurtenant to each Lot in the Chatfield II Subdivision project, as expanded, shall be based on the same formula as contained in Sections 4.3.B. and 5.2 of the Declaration.

The amendment to the Declaration shall contain at a minimum the legal description of the Development Property, or a part thereof, or a description of the property on which the Additional Improvements being submitted to this Declaration are located and a schedule of the Allocated Interests appurtenant to the Lots in the Chatfield II Subdivision project as expanded.

6.4 Amendment of the Plat Map. Declarant shall, contemporaneously with the amendment of the Declaration, file an amendment of the plat map showing the location of the Additional Improvements constructed on the Development Property. The amendment to the plat map shall substantially conform to the requirements contained in this Declaration.

6.5 Interpretation. Recording of the amendments to the Declaration and map in the office of the clerk and recorder of the county where the Development Property or the Additional Improvements are located shall automatically vest in each existing Owner the reallocated Allocated Interests appurtenant to his Lot.

Upon the recording of an amendment to the Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the property, as expanded. The Development Property, or any part thereof, or the Additional Improvements, shall be added to and become a part of the property for all purposes. All conveyances of Lots after such expansion shall be effective to transfer rights in all Common Elements as expanded, whether or not reference is made to any amendment to the Declaration or plat map. Reference to the Declaration and plat map in any instrument shall be deemed to include all amendments to the Declaration and plat map without specific reference thereto.

6.6 Easements. Easements for installation and maintenance of utilities, drainage facilities and irrigation water are reserved as shown on the Plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow, obstruct or retard the flow of water in and through drainage channels in the easements. The easement area of each Lot and all Improvements in it shall be maintained continuously by the Owner of the Lot, except those Improvements for which a public authority or one or more utility companies is responsible.

6.7 Construction Easement. Declarant expressly reserves the right to perform warranty work and repairs and construction work and to store materials in secure areas, on Lots and Common Elements, and the future right to control such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of any Owner or mortgagee. Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits and other facilities across the land not designated as reserved for future development in the Declaration or on the map for the purpose of furnishing utility and other services to buildings and improvements to be constructed on the property so reserved for future development. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey improvements within those easements anywhere in the Common Elements not occupied by an improvement containing Lots. If Declarant grants any such easements, the Declaration will be amended to include reference to the recorded easement.

6.8 Reciprocal Easements. If all or part of the Development Property is not submitted to this Declaration, or if property is withdrawn from the Chatfield II Subdivision project ("Withdrawn Property"):

A. The Owner(s) of the Development Property and/or Withdrawn Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Chatfield II Subdivision; and

B. The Owner(s) in the Chatfield II Subdivision project shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Development Property and Withdrawn Property.

Declarant shall prepare and record in the office of the clerk and recorder of Mesa County whatever documents are necessary to evidence such easements and shall amend the Declaration to include reference to the recorded easement(s). Such recorded easement(s) shall specify that the

Owners of the Development Property and the Withdrawn Property and the Owners in the Chatfield II Subdivision project shall be obligated to pay a proportionate share of the cost of the operation and maintenance of any easements utilized by either one of them on the other's property upon such reasonable basis as Declarant shall establish in the easement(s). Preparation and recordation by Declarant of an easement pursuant to this section shall conclusively determine the existence, location and extent of the reciprocal easements that are necessary or desirable as contemplated by this section.

6.9 Termination of Expansion and Development Rights. The expansion and Development Rights reserved to Declarant, for itself, its successors and assigns, shall expire ten (10) years from the date of recording this Declaration, unless the expansion and Development Rights are (i) extended as allowed by law, or (ii) reinstated or extended by the Association, subject to whatever terms, conditions and limitations the Board may impose on the subsequent exercise of the expansion and Development Rights by Declarant.

6.10 Transfer of Expansion and Development Rights. Any Development Right or Additional Reserved Right created or reserved under this article for the benefit of Declarant maybe transferred to any person by an instrument describing the rights transferred and recorded in every county in which any portion of the project is located. Such instrument shall be executed by the transferor Declarant and the transferee.

ARTICLE VII

CASUALTY, DAMAGE AND REPLACEMENT OF IMPROVEMENTS

7.1 Owner's Insurance. All Owners shall keep and maintain fire and casualty insurance upon all Improvements situate on their Lots to the full insurable value thereof, and file the certificate of insurance with the President of the Association, such certificate providing for ten (10) days' written notice of cancellation, surrender or modification.

7.2 Loss, Damage or Destruction of Improvements Other Than Buildings. In the event of a loss, destruction or damage to any Improvements situate on any Owner's Lot exclusive of the residential building, such Owner shall, after first obtaining the approval of the Architectural Control Committee, replace, repair or restore such damaged Improvement with an identical Improvement as to the one destroyed, lost or damaged. In the event an Owner fails to make such repair, replacement or restoration within ninety (90) days of the loss, damage or destruction, the Association shall have the option to make such repair, restoration or replacement and charge the cost thereof to the Owner as a reimbursement assessment.

In the event of loss, damage or destruction of any Improvement situate upon the Common Elements, the Association shall within ninety (90) days of such loss, damage or destruction, replace, repair or restore such Improvement with an identical Improvement.

7.3 Loss, Damage or Destruction to Buildings. In the event of loss, damage or destruction of any residential building, the Owner thereof shall repair, restore or rebuild the same within one year following such damage or destruction. The new structure shall be rebuilt in the same location, following the same floor plan and elevation and using the same exterior materials and stain as the building which had been lost, damaged or destroyed. It is the specific intent of this section to impose upon the Owner of each Lot, the obligation to replace any destroyed building with a new building having the identical appearance as the building destroyed and the other residences within the Properties. Further, following completion of the repair, restoration or replacement of the damaged structure, the Owner shall repair, replace or restore any landscaping or other Improvements involved in the damage, destruction or loss to the residents within ninety (90) days of completion of the structure. However, in the event completion is after September 1st of any year, landscaping shall be completed by May 1st of the following calendar year.

ARTICLE VIII
USE-OF SUBDIVISION FOR SALES PURPOSES

8.1 Maintenance of Sales Office and Models. Declarant reserves the right to maintain a sales office and/or model homes in-the Subdivision for sales purposes. Declarant shall maintain no more than one sales office and no more than two model homes at any time. Each sales office or home shall occupy no more than one Lot, and Declarant reserves the right to use any unsold Lot for such purposes.

ARTICLE IX
STREET LIGHTING

9.1 Street Lighting. Chatfield II Subdivision is subject to the terms and provisions of an unconditional restrictive covenant which provides in substance that present and subsequent owners of property in the area proposed to be served are subject to and bound by present and future Public Service Company of Colorado tariffs applicable to street lighting service filed with the Public Utilities Commission of the State of Colorado.

ARTICLE X
GENERAL PROVISIONS AND MISCELLANEOUS

10.1 Enforcement. The Association, or any Owner, shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any

Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter, or a waiver of any other or subsequent breach of any covenant, condition or restriction herein contained.

10.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

10.3 Amendments. The covenants and restrictions of this Declaration shall run with and bind the land for a term of ten (10) years from the date this Declaration was recorded, after which time they shall be automatically extended for successive periods often (10) years. This Declaration may be amended by Declarant at any time prior to the recording of the first deed from Declarant to an Owner. Thereafter, this Declaration may not be amended for any purpose whatsoever for a five (5) year period, and thereafter, this Declaration shall only be amended by vote or agreement of Owners of Lots to which at least seventy percent (70%) of the votes in the Association are allocated. Any amendment must be recorded.

10.4 Limitation on Association. Any action, resolution or attempted action of the Association in conflict with any term or provision of this Declaration shall be void and of no force and effect whatsoever.

10.5 Notice. Notice of matters affecting Chatfield II Subdivision maybe given to Owners by mailing such notice by first class mail to the last address provided by the Owner to the Association. If no address has been provided by Owner, such notice shall be mailed to the address of Owner's Lot.

IN WITNESS WHEREOF, Declarant sets his hand and seal the 6th day of October, 2004.

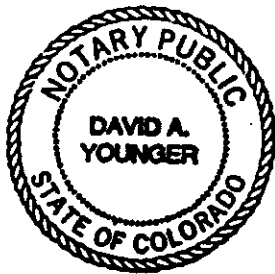
TDSM, INC., a Colorado corporation

By: 
F. Thad Harris, President

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 6TH day of October, 2004, by F. Thad Harris as President of TDSM, INC., a Colorado corporation.

My commission expires: 11-23-04
Witness my hand and official seal.



David A Younger
Notary Public