

AMENDED AND RESTATED
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR PEPPER TREE
ALL FILINGS AND ALL PHASES

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Pepper Tree, All Filings and All Phases (Amended Declaration), is made effective as of the date of the recording of this Amended Declaration in the real estate records of Mesa County, Colorado.

RECITALS

A. IBX, Inc., an Arizona corporation (IBX) is the successor to the original Declarant, Benchmark Communities, Ltd., an Ohio partnership, as defined in the Declaration of Covenants, Conditions and Restrictions for Pepper Tree recorded in the records of Mesa County, Colorado on June 3, 1983 in Book 1437 at Pages 261 through 283 (Declaration). For all purposes hereinafter it is agreed that the term Declarant shall refer to IBX but IBX shall assume no liabilities of the original Declarant other than those that may legally be required to be assumed.

B. The Declaration applied to the following subdivision plats recorded in Mesa County, Colorado:

PEPPER TREE FILING No. ONE, a replat of Pepperidge -
Filing No. One (Filing One)

PEPPER TREE FILING No. TWO (Filing Two)

PEPPER TREE FILING No. THREE (Filing Three)

Subsequent to the recording of the plats for Filing One, Filing Two and Filing Three, the following plat was recorded in Mesa County, Colorado that amended a portion of the plat for Filing Three:

A Replat of Block Four, Tract F and Block Three, Tract E,
PEPPER TREE FILING No. THREE (Filing Three Replat)

The Declarant now intends to commence and complete in phases over a period of time not to exceed ten (10) years, the development of Block 5, Filing Three Replat and the Declarant's undeveloped

property immediately adjacent to and south of Filing Three Replat, both of which parcels are described in Exhibit A attached hereto. The development of the property described in Exhibit B shall be done as and shall be designated as PEPPER TREE FILING No. 4 (Filing Four). For all purposes in this Amended Declaration, Filing One, Filing Two, Filing Three, Filing Three Replat and Filing Four, as those filings are now filed or as they may be filed, amended or replatted, shall be referred to herein as the Properties or as the Subdivision. The Subdivision is a planned community. No assurance is given regarding the boundaries of the phases or order of the development of the phases in Filing Four.

C. This Amended Declaration is entered into and approved by not less than 90% of the Lot Owners all as set forth in Article X, Section 3 of the Declaration.

D. By approving this Amended Declaration, the Declarant, the Association and the Owners intend to and do hereby adopt the terms and provisions of the Colorado Common Interest Ownership Act (the Act) and state that such Act shall apply to the Subdivision.

E. At the time of recording of this Amended Declaration and thereafter until amended or terminated in accordance with the terms of this Amended Declaration and the Act, this Amended Declaration shall apply to and affect the Properties. This Amended Declaration shall completely and fully replace and take the place of the Declaration and all prior declarations and covenants.

NOW THEREFORE, Declarant, the Association and not less than 90% of the Lot Owners declare that all of the Properties shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of, and which shall run with the Properties and be binding on all parties having any right, title or interest in the Properties or any part thereof, their heirs, personal representatives, successors and assigns and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to PEPPER TREE HOMEOWNERS ASSOCIATION, INC., a Colorado nonprofit corporation, its successors and assigns.

Section 2. "Association Water" shall mean and refer to all water of the Palisade Irrigation District appurtenant to the Properties and any other water or water rights, ditch or ditch rights acquired by the Association.

Section 3. "Common Area" shall mean all portions of the Properties (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area owned by the Association in Filing One, Filing Two and Filing Three is described on Exhibit "B" attached hereto. At the time of the conveyance by the Declarant of the first Lot in each phase of Filing Four to a purchaser, the Declarant shall convey to the Association the Common Area designated as such on the recorded plat of that phase of Filing Four.

Section 4. "Declarant" shall mean and refer to IBX, its successors and assigns.

Section 5. "Improvement" shall mean the single family residential structure and its appurtenances constructed on each Lot by the Declarant for ownership by the Declarant or for sale or lease.

Section 6. "Lot" shall mean a "Unit" as that term is defined in C.R.S. 38-33.3-104(30) and shall refer to any plot of land shown upon any recorded subdivision map of the Properties, with the exception of the Common Area on which an Improvement is constructed. The Declarant reserves the right to create up to 40 Lots in all phases of Filing Four.

Section 7. "Members" are members of the Association as defined in this Amended Declaration and in the Articles and By-laws of the Association.

Section 8. "Owner" shall mean and refer to the record owner, whether one or more Persons and including Declarant, of a 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.

Section 9. "Person" shall mean a natural person, a corporation, a limited liability company, a partnership, an association, a trust, or any other entity or combination thereof.

Section 10. "Properties" shall mean and refer to that certain real property described in Paragraph B above, and such additions thereto as may hereafter be brought within the jurisdiction of the Association and made subject to this Amended Declaration.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right of easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to adopt reasonable rules and regulations for the use of the Common Area;

(b) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of the Owners and all first mortgagees have been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the Owner's Lot or Lots.

Section 3. General Restrictions. The following restrictions are hereby placed on all Lots in the Subdivision.

(a) Antennae. No exterior antennae shall be erected or maintained on any Lot or Improvement or structure thereon in the Subdivision.

(b) Insurance Rates. Nothing shall be done or kept in the Subdivision which will increase the rate of insurance on any property of the Association without the approval of the Board of Directors of the Association (Board) in accordance with the Association's By-laws, nor shall anything be done or kept in the Subdivision which would result in the cancellation of insurance on any property of the Association or which would be in violation of any law.

(c) No Further Subdivision. No Lot may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof; provided, however, that nothing herein shall be deemed to prevent or require the approval of the Board for the transfer or sale of any Lot to more than one person to be held by them as tenants in common or joint tenants.

(d) Signs/Air Conditioners. No sign of any kind shall be displayed to the public view without the approval

of the Architectural Control Committee (Committee), except such signs as may be used by Declarant in connection with the development of the Subdivision and sale of Lots and except such signs of customary and reasonable dimensions as set forth by the Committee as may be displayed on or from a residence advertising the residence for sale or lease. All signs, except such signs as may be used by Declarant, shall be placed on the exterior of the residence parallel to the exterior wall. Any "For Sale" or "For Lease" signs not more than three (3) feet by two (2) feet, plain white with black letters, shall not require Committee approval. No window or wall mounted or other sleeve type air conditioners shall be installed on any Lot. Exceptions to the prohibitions contained in this Subsection (d) may be permitted by resolution of the Board in circumstances prescribed and limited therein.

(e) Animals. No animals of any kind shall be raised, bred or kept, except that a reasonable number of dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. A "Reasonable Number" as used in this Subsection shall ordinarily mean no more than two (2) pets per household, provided, however, that the Board may determine that a Reasonable Number in any instance may be more or less.

(f) Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any property within the Subdivision and no odors shall be permitted to arise therefrom so as to render the Subdivision or any portion thereof unsanitary, unsightly, offensive or detrimental to any of the Subdivision or other property in the vicinity thereof or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon any part of the Subdivision so as to be offensive or detrimental to any of the Subdivision or other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any property in the Subdivision without the prior written approval of the Board.

(g) Exterior Maintenance. In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, mail boxes, parking lots, parking area lighting, trees, shrubs, grass, Common Area fences, fences between Lots, walks and other

exterior improvements. Such exterior maintenance shall not include glass surfaces and maintenance, repair and replacement of evaporative coolers and refrigerated or other types of air conditioning units.

In the event that the need for maintenance or repair of a Lot or the Improvements thereon is caused through the willful or negligent acts of its Owner, or through the willful or negligent acts of the family, guest or invitees the Owner of the Lot needing such maintenance or repair, the cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

(h) Appearance of Lot. It shall be the responsibility of the Association to contract with a trash removal service for the disposition of trash from all Common Areas and each Lot.

(i) Utilities. All utilities including electric, telephone and television cable lines shall be underground.

(j) Fences. No fences shall be erected on any Lot without the prior approval of the Board.

(k) Gardens. No Gardens may be created or planted without prior approval of the Board.

(l) Violation of Association Rules. From time to time the Board may adopt and publish rules and regulations (the Association Rules) governing the use of the Common Area and facilities and the personal conduct of the Owners, their guests, family and invitees and all others. There shall be no violation of the Association Rules once adopted by the Board after notice and hearing. If any Owner, his family, or any licensee, lessee or invitee or any other person violates the Association Rules, the Board may suspend the right of such person to use the Common Area facilities, if any, under such conditions as the board may specify, for a period not to exceed sixty (60) days for each violation. Before invoking any suspension, the Board shall give such person reasonable notice and an opportunity for a hearing. In the event any Owner of any Lot shall violate any Association Rule which shall result in damage to any part of the Common Area, the board shall have the right after reasonable notice and an opportunity for a hearing to assess the cost of repair of such damages against the Lot of the Owner or Owners responsible for such damages. Such assessment shall be added to and become part of the assessment to which such Lot is subject. Notwithstanding anything to the contrary in this Declaration, the Board shall not have the power to bar any Owner from use of the Common Area necessary to allow the Owner free access to and from his Lot.

(m) Drainage. There shall be no interference with the established drainage pattern over any portion of the Subdivision unless adequate provision is made for proper drainage and is approved by the Architectural Control Committee. For the purposes hereof, "Established Drainage" is defined as the drainage which exists at the time the overall grading of any property of the Association is completed, or which is shown on any plans approved by the Architectural Control Committee. A permanent easement across the Common Area for drainage purposes is hereby granted.

(n) No Hazardous Activities. No activities shall be conducted on any of the Properties and no structures shall be constructed or placed on any Lot which are or might be unsafe or hazardous to any Person or the Properties.

(o) Separate Structures. No structure of any kind shall be erected on the Properties or on any Lot other than the Improvement built on each Lot by the Declarant as part of the development of the Subdivision without the prior written approval of the Architectural Control Committee.

(p) Improvements and Alterations. There shall be no excavation or construction or alteration which in any way alters the exterior appearance of any Improvement within the Subdivision, nor removal of any Improvement in the Subdivision (other than repairs or rebuilding pursuant to Article II, Section 3(g) without the prior approval of the Architectural Control Committee pursuant to Article V hereof.

(q) Residential Use: Rental. No Improvement shall be used for any purpose other than single-family residential purposes. No gainful occupation, profession, trade or non-residential use shall be conducted on, in or from any such Improvement, provided, however, that nothing in this Amended Declaration shall prevent the rental of a Lot by the Owner thereof for residential purposes, subject to all the Provisions of this Amended Declaration and the Articles and By-laws of the Association.

Any Owner who leases his Lot or the Improvements constructed thereon shall be required to provide in his lease that the terms of the lease shall be subject in all respects to the provisions of this Amended Declaration, the Association's Articles of Incorporation and By-Laws and that any failure the lessee to comply with the terms of such documents shall be a default under the lease. All leases are required writing and shall be for a minimum of three (3) months.

(r) Vehicle Storage and Repair. No unlicensed vehicle, vehicles with an expired license, inoperable vehicle, house trailer, camping trailer, hauling trailer, running gear or boat or accessories thereto, truck or pickup or van or camper in excess of three-fourth (3/4) ton size, shall be parked, stored, repaired, or maintained on any Lot or in any parking area for a period not to exceed seventy-two (72) hours. No automotive repairs shall be conducted and no commercial vehicle, mobile home, trailer or recreational vehicle, including, but not limited to boats, snowmobiles, motorcycles or minibikes shall be parked habitually on or adjacent to any Lot or in any parking area. Use and operation of such recreational vehicles within the Subdivision shall be subject to regulation by the Board. This restriction shall not apply to commercial or other vehicles making business or service calls or deliveries to the Lots or to the Association or to contractors within the Properties.

(s) Exemption of Declarant. Nothing in this Amended Declaration, the Articles, By-laws or Association Rules shall limit the right of Declarant to complete excavation, grading and construction of Improvements to any portion of the Subdivision owned by Declarant, or to alter the foregoing or to construct such additional Improvements as Declarant deems advisable in the course of development of the Subdivision so long as any Lot in the Subdivision remains unsold by Declarant, or used as a construction office, or real estate sales or leasing office. Declarant need not seek or obtain Architectural Control Committee approval of any Improvement constructed or placed by Declarant on any property in the Subdivision owned by Declarant so long as the Improvement constructed or placed by Declarant does not substantially deviate from the general architectural scheme and does not materially lower the average unit valuation. The rights of Declarant hereunder and elsewhere in this Amended Declaration may not reasonably interfere with the rights of Lot Owners however these rights may be assigned by Declarant.

(t) Snow Removal. When necessary the Association has the authority and responsibility to contract with a snow removal service to maintain the common walks and streets not the responsibility of the Owners. Each Owner has responsibility for snow removal from his front porch and the rear patio of his Lot.

(u) Parking Spaces. All parking shall be located in the Common Area and be under the control of the Association, and the use thereof shall be subject to the Association Rules.

Without limiting the generality of the powers of the Association with respect to parking, the Association is hereby specifically authorized to have any vehicle parked in

an area not designated for parking immediately removed at the expense of the Owner of the Lot who owns such vehicle or whose guests, tenants or invitees own such vehicle. The expenses incurred by the Association in accomplishing such removal (and storage, if necessary) shall become a portion of the Common Expenses levied only against such Owners and their Lot.

Section 4. Easements.

(a) Reciprocal Easements. The Declarant hereby reserves for itself so long as it shall own one or more Lots, and for the Association, without limitation, their successors and assigns, a right of way and easement for maintenance and repair of the Common Area and exterior maintenance assigned to the Association in Article II, Section 3 (g) of the Declaration, and the installation, inspection and replacement of utility lines, including but not limited to, water lines, sewer lines, gas lines, telephone lines, television cable antenna lines and such other utility lines and incidental equipment thereon, over, under and across the Common Area and that portion of any Lot situated between any Improvement and the street adjacent thereto. Declarant or Association shall, except in cases of emergency, furnish to all affected Owners twenty-four (24) hours notice before exercising the rights granted by this Article. Perpetual reciprocal easements for the aforementioned purposes shall exist both for the benefit and burden of all of the Owners.

(b) Easements for Encroachments. If any portion of an Improvement encroaches upon the Common Area, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist provided such encroachments do not exceed one foot within the boundaries of the Common Area and such encroachments do not interfere with the enjoyment of the Common Area. If any portion of the Common Area encroaches upon a Lot a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to the encumbrances either on the Common Area or the Lot.

(c) Reservation of Easements. Declarant reserves for itself and the purchasers of the existing and additional Subdivision property the use of the easements set forth in this Article II which are intended to and shall be for the benefit of all Owners, and no reference thereto need be made in any deed, instrument of conveyance or any other instruments.

(d) Easement of Utilities. The Declarant hereby grants a right-of-way and easement for utility purposes including, but not limited to, water lines, sewer lines, gas

lines, telephone lines, television cable antenna lines and such other utility lines and incidental equipment over, under and across the Common Area and the unimproved portion and exterior walls of adjoining residences. Such utility easements and rights-of-way shall be binding upon the Declarant and the Association and their respective successors and assigns.

Section 5. Management of Association Water.

(a) Right To Manage. The Declaration granted and delegated to the Association the right to manage, distribute and control all Association Water. It is agreed that the Association shall manage, distribute and control the association Water for the benefit of the entire Subdivision. Each present Owner and each future Owner, by accepting a deed or any form of title to a Lot or to any portion of the property, shall be deemed to have ratified and reaffirmed that grant and delegation. The Association shall have the power to establish rules and regulations governing the use of Association Water (included in the Association Rules), and it is expressly granted the right to:

1) Dedicate or transfer all or any part of the Association Water to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Declarant, Association and Owners. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the Owners agreeing to such dedication or transfer has been recorded.

2) Combine with Association Water any water rights appurtenant to any property which may subsequently be annexed to these covenants, and to manage the combined water and water rights.

3) Contract with adjacent property owners for joint use of irrigation water delivery systems.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Lot Owner. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Membership. The Association shall have one class of voting membership. Members shall be all Owners, including the Declarant, and shall be entitled to one vote for

each Lot owned. When more than one Person holds an interest in any, Lot, all such Persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Section 3. Voting Rights and Limitations.

(a) Suspension of Voting Rights. If any Owner, his family or any licensee, lessee or invitee violates the Association Rules once adopted by the Board after reasonable notice and an opportunity for a hearing, the Board may suspend the right of such person to vote his membership interest, under such conditions as the Board may specify, for a period not to exceed sixty (60) days for each violation. Before invoking any such suspension of voting rights, the Board shall give such persons reasonable notice of the suspension and an opportunity for a hearing.

(b) Additional Voting Requirements. Prior to the completion of the Subdivision any reduction in the amount of regular annual assessments levied in any year upon the Owner of each Lot in the Subdivision, shall require the consent of Declarant in addition to any other vote, consent or approval required.

(c) Upon the written assent of two-thirds of the Owners, the Association and the Properties may be annexed by a municipality, merged or consolidated with another or similar organizations, or be dissolved entirely. In no event, however, will the Owners ever obtain individual ownership of any of the Association interests or property.

ARTICLE IV

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, and each present Owner of each Lot owned within the Properties hereby covenants, and each future Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: annual assessments or charges or special assessments for the purposes set forth in Section 2 below, such assessments to be established and collected as hereinafter provided. The annual assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable

attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to a successor in title unless expressly assumed by that Person. The Owner further agrees by his acceptance of title to a Lot that the Association shall be vested with the right and power in its own name to prosecute all actions which may, in the opinion of the Association, be necessary or advisable for the collection of any delinquent assessments.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and of the exterior maintenance of the Improvements as described in Article II, Section 3(g).

Also, a portion of the annual assessments, which may be payable monthly, shall be used to provide an adequate reserve fund for the replacement, repair, and maintenance of those portions of the Common Area which must be replaced on a periodic basis, and the Board shall be obligated to establish such reserve fund in a reasonable amount.

Section 3. Maximum Annual Assessment. Except as provided below, the maximum annual assessment shall be \$85.00 per Lot.

(a) From and after January 1, 1993, the maximum annual assessment may be increased effective January 1 of each year without a vote of the Owners either (i) in conformance with the rise, if any, of All Items category of the latest publication of the Denver Consumer Price Index (published by the Department of Labor, Washington, D.C.) as compared with the Index as of January 1, 1993 or (ii) not more than ten percent (10%) above the maximum annual assessment for the previous year, whichever is greater; provided however, that;

(b) From and after January 1, 1993, the maximum annual assessment may be increased above that established by Section 3 (a) above by a vote of two-thirds (2/3) of the Members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board may fix annual assessments at an amount not in excess of the maximum.

Section 4. Special Assessments For Capital Improvements. In addition to the annual assessments authorized above, the Board may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the Members who are eligible to vote and are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Special Assessments For Insurance. The Board shall have the authority to assess each Owner for its equal pro-rata share of liability, fire and extended coverage monthly assessment or, at the discretion of the Board, by separate billing to the Owner's first lien holder for payment from that Owner's first lien holder's escrow account.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be on a monthly basis all in accordance with this Article IV.

Section 7. Date of Commencement of annual Assessments: Due Dates. For all purposes herein, assessments shall be commenced on each Lot at the time that a Certificate of Occupancy is issued for the Improvement on the Lot. The first annual assessment for each Lot shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid. A properly executed certificate of the Association as to the status of the assessment on a lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty days after the due date shall be delinquent and shall bear interest from the due date at the rate of eighteen (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of

the Common Area or abandonment of his Lot. Notwithstanding the foregoing, any first mortgagee who takes title to a Lot pursuant to the remedies provided in its deed of trust or mortgage will not be liable for such Lot's unpaid dues, charges, assessments, or liens which accrue prior to the acquisition of title to such Lot by such mortgagee.

Section 9. Exempt Property. The following Property shall be exempt from the lien for assessments created herein:

(a) All properties dedicated to and accepted by a local public authority; and

(b) The Common Area.

Section 10. Notice to Mortgagee. Upon request of a first Mortgagee of any Lot and upon payment of reasonable compensation therefore, the Association shall report to such first Mortgagee any unpaid assessment or other defaults under the terms of this Declaration which are not cured by said Mortgagee's mortgagor within thirty (30) days.

Section 11. Notice and Quorum for any Action Authorized Under Sections 3, 4 and 5. Written notice of any meeting called for the purpose of any taking action authorized under Section 3, 4 and 5 of this Article IV shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast two-thirds (2/3) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more Less Sixty (60) days following the preceding meeting.

Section 12. Homestead. The lien of the Association assessments as provided for herein shall be superior to any homestead exemption as is now or may hereafter be provided by Colorado or Federal law. The acceptance of a deed to any lot subject to this Declaration shall constitute a waiver of the homestead exemption as against said assessment lien.

Section 13. Public Service Company Tariffs. All lots are subject to and bound by public service company tariffs which are now and may in the future be filed with the Public Utilities Commission of the State of Colorado relating to street lighting of this Subdivision, together with rates, rules and regulations

therein provided and subject to all future amendments and charges thereto. The Owner or Owners shall pay as billed a portion of the cost of public street lighting in the subdivision according to Public Service Company rates, rules and regulations, including future amendments and changes. on file with the Public Utilities Commission of the State of Colorado.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee. The Architectural Control Committee shall be appointed by the Board and shall exercise its best judgment to see that all improvements, construction, landscaping and alterations on Lots or Improvements within the Subdivision if approved at all, conform to and harmonize with existing surroundings and structures. The Committee shall consist of three (3) persons. If an Architectural Control Committee is not appointed, the Board shall be the Architectural Control Committee.

Section 2. Review of Plans. No building, fence, wall, canopy, awning, structure or improvement shall be commenced, erected, altered, moved, removed or maintained upon a Lot, an Improvement, or any portion thereof, nor shall any exterior addition to, or change or alteration thereof be made until the plans and specifications showing the nature, kind, shape, height, materials, location and approximate cost of the same shall have been submitted to the Architectural Control Committee and approved in writing.

Section 3. Procedures. The Architectural Control Committee shall approve or disapprove all plans and requests within thirty (30) days after submission. In the event the Architectural Control Committee fails to have any action within thirty (30) days after requests have been submitted, approval will not be required and this Section 3 will be deemed to have been fully complied with. To seek approval, plans and specifications must be submitted in writing or in drawing form to the chairman of the Committee at the chairman's residence.

Section 4. Majority Vote. A majority vote of the Architectural Control Committee is required for approval or disapproval of any proposed additions, changes or modifications to any Lot or Improvement.

Section 5. Written Records. The Architectural Control Committee shall maintain records of all applications submitted to it and of all actions it may have taken.

Section 6. No Liability. Each Owner hereby agrees that the Architectural Control Committee shall not be liable for damages to any person submitting requests for approval or to any Owner with the Properties by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such requests.

Section 7. Reservation of Right to Exercise by Declarant. Notwithstanding any other provision expressly or impliedly to the contrary contained in this Declaration, the Articles, the By-Laws, or the Association Rules, Declarant reserves the right to exercise the rights, duties and functions of the Architectural Control Committee until such time as all of the Lots situated on the Subdivision, including any property and Lots annexed thereto and made subject to this Declaration, have been sold and conveyed by Declarant.

ARTICLE VI

POWERS AND DUTIES OF THE ASSOCIATION

Section 1. Association Duties. The Association shall have the obligation, subject to and in accordance with this Amended Declaration, its Articles, By-laws and Association Rules, to perform each of the following duties for the Owners of each lot within the subdivision:

(a) Association Property. To accept and exercise jurisdiction over all property, real and personal, conveyed free and clear of all liens and encumbrances to the Association by Declarant, including, (1) The Common Area, (2) easements for operation and maintenance purposes over the Common Area, (3) easements for the benefit of Members within the Common Area, and (4) to manage the Association Water.

For purposes of this paragraph, any easement in favor of the general public or portions thereof over roads or sidewalks conveyed to the Association for ingress to and egress from any sales office or model home complex of Declarant, shall not constitute a lien or encumbrance, and shall not preclude the acceptance by the Association of such property.

(b) Title to Property Upon Dissolution. To convey, upon dissolution of the Association, the assets of the Association to an appropriate public agency or agencies to be used for purposes similar to those for which the Association was created, or to a non-profit corporation, association, trust or other organization organized and operated for such similar purposes.

(c) Operation of the Common Area. To maintain or provide for the maintenance of the Common Area.

(d) Payment of Taxes. To pay all real property taxes and assessments levied upon any property conveyed, leased or otherwise transferred to the Association to the extent not assessed to the Owners thereof. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid or a bond insuring the payment is posted to the sale of other disposition of any property to satisfy the payment of such taxes.

(e) Insurance:

(1) The Board of Directors of the Association shall obtain and maintain at all times such insurance as is required to be carried by C.R.S. §38-33.3-313, as it applies to planned communities, which statutory section is incorporated herein and by this reference made a part hereof.

(2) If not otherwise required to be carried by the above cited statutory section, the Association shall obtain and maintain in force fire insurance with extended coverage and all-risks endorsements, which endorsements shall include endorsements for vandalism, malicious mischief, sprinkler leakage, debris removal, cost of demolition, windstorm and water damage. Said casualty insurance shall insure all loss in the Subdivision and any Property, the nature of which is a Common Element but not including furniture, furnishings or other personal property supplied by or installed by Lot Owners together with all service equipment contained therein to an amount equal to the full replacement value, without deduction for depreciation. The policy shall have an agreed Amount Endorsement or its equivalent, if available, or an Inflation Guard Endorsement. All policies shall be in amounts satisfactory to all first Mortgagees, and shall contain a standard non-contributory mortgagee clause in favor of each first Mortgagee of a Lot, which shall provide that the loss, if any, thereunder, shall be payable to the Association for the use and benefit of the Association, the Owner, and the first Mortgagee as their interest may appear. All policies of property insurance must provide that, despite any provisions giving the insurance carrier the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable without the prior written approval of the Association.

(3) The commercial general liability insurance carried by the Association shall provide for limits of liability of not less than \$500,000.00 per injury, per person, per

occurrence and umbrella liability limits of \$1,000,000.00 per occurrence. The Board may in its discretion determine at any time to increase the limits of any such insurance.

(4) The Association shall obtain, to the extent reasonably available or if requested, worker's compensation and employer's liability insurance and all other similar insurance with respect to the employees of the Association in the amounts and in the form now or hereafter required by law.

(5) The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Common Area, including plate or other glass insurance, and insurance against loss to any personal property of the Association located on the Common Area.

(6) Lot Owners may carry other insurance for their benefit and at their expense providing insurance coverage on personal property and public liability. Personal property is defined as all articles and contents of a personal nature that are not built in or made a physical part of the Improvement structure. The liability of the carriers issuing insurance obtained by the Board shall not be affected or diminished by reason of any additional insurance carried by any Owner.

(7) ~~Insurance coverage on fixtures and built in improvements, including but not limited to carpet, oven, range, refrigerator, wallpaper, disposal, plumbing fixtures, sinks, bathtubs and other items of personalty shall be included in the calculations for the replacement cost coverage on the building, and protected int he master insurance policy purchased by the Board on behalf of the Association.~~

(8) The Association and Owner each hereby waive any and all rights of recovery against the other, their officers, members, agents and employees, occurring on or arising out of the use and occupation of the premises or the building to the extent such loss or damage is covered or indemnified by proceeds received from insurance carried by the other party, or for which such party is otherwise reimbursed. Each of the parties shall, upon obtaining the insurance required hereunder, notify the insurance carrier that the foregoing waiver of subrogation is contained in this covenant, and, to the extent available, shall require the insurance carrier to include an appropriate Waiver of Subrogation Provision in the policy.

(f) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association, enforcement of this Amended

Declaration, or in performing or carrying out any or the other duties or rights of the Association.

(g) Association Property Services. To pay for maintenance and other necessary services for the property of the Association.

(h) Contracts. Neither Declarant nor any agent of Declarant shall enter into any contract which would bind the Association or the Board thereof for a period in excess of one (1) year, unless reasonable cancellation provisions are included in such contract.

(i) Enforcement of Restrictions and Rules. To perform such other acts, whether or not expressly authorized by this Amended Declaration, as may be reasonably necessary to enforce any of the provisions of this Amended Declaration and the Articles, Bylaws and Association Rules.

(j) Other. To carry out the duties of the Association set forth in this Amended Declaration, the Articles, Bylaws and Association Rules.

Section 2. Rules. The Board may adopt, amend, add and delete from time to time such rules and regulations as it deems appropriate for the proper operation of the Association (Association Rules). A copy of these Association Rules, as they may from time to time be adopted, amended or repealed, must be mailed or otherwise delivered to each Owner, but need not be recorded. Upon such mailing or delivery, the rules and regulations shall be in full force and effect and may be enforced against each Owner.

Section 3. Liability of Board Members and Manager. Neither any member of the Board nor the Manager shall be personally liable to any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of any act or omission of the Association, the Board, the Manager, or any other representative or employee of the Association, or the Architectural Control Committee, provided that such Board member, or the Manager has, upon the basis of such information as may be possessed by him acted in a reasonable and prudent manner. Nothing contained herein shall be construed to limit the liability of the Association.

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of an Improvement upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing Repair and Maintenance. Except to the extent covered by insurance, the cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, the party wall shall be repaired and reconstructed with any available insurance proceeds and to the extent necessary, with funds from each adjacent Owner, in proportion to each Owner's responsibility for the damage without prejudice, however, to the right of any such Owner to seek a larger contribution from the other Owner under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 5. Arbitration. In the event of a dispute concerning a party wall or under the provisions of this Article, any such dispute shall be submitted to binding arbitration by the parties pursuant to the provisions of the Colorado Uniform Arbitration Act of 1975. In the event the parties cannot agree upon the number and identity of an arbitrator or arbitrators, one arbitrator shall be appointed by the Chief Judge of the Mesa County District Court.

ARTICLE VIII

DAMAGE OR DESTRUCTION

Section 1. Destruction Of Improvements on Lot.

(a) In the event of damage or destruction to an Improvement due to fire or other disaster, the insurance proceeds, and if insufficient to reconstruct the Improvement the personal funds of the Owner necessary to reconstruct the Improvement, shall be deposited into a bank account which

requires for withdrawals the signature of an officer of the Association designated by the Board and the Owner. The Owner shall then promptly authorize the necessary repair and reconstruction work, and the insurance proceeds will be applied by the Owner to defray the cost thereof. "Repair and Reconstruction" of the Improvement, as used herein, means restoring the structure to substantially the same condition in which it existed prior to the damage, with each Improvement having the same boundary as before.

(b) If the insurance proceeds are insufficient to repair or reconstruct any damaged Improvement, such damage or destruction shall be promptly repaired and reconstructed by the Owner using the insurance proceeds and other personal funds.

Section 2. Damage to Common Area. In the event of damage or destruction to all or a portion of the Common Area due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such Common Area damage or destruction are insufficient to repair and reconstruct the damaged or destroyed Common Areas, the Association shall present to the Members a notice of a special assessment for approval by the membership in accordance with Article IV, Section 4. If such assessment is approved, the Association shall make such assessment and proceed to make such repairs or reconstruction. If such assessment is not approved, the insurance proceeds may be applied in accordance with the wishes of the membership as expressed by the written consent of seventy-five percent (75%) of the Owners other than Declarant, except that the proceeds shall not be distributed to the Owners, unless made jointly payable to Owners and the first Mortgagees of their respective Lots, if any. The assessment as to each Owner and Lot shall be equal to the assessment against every other Owner and Lot. Such assessment shall be due and payable as provided by resolution of the Board of Directors, but not sooner than sixty (60) days after written notice thereof. The assessment provided for herein shall be a debt of each Owner and a lien on his Lot and the improvements thereon, and may be enforced and collected in the same manner as any assessment lien provided for in this Amended Declaration.

ARTICLE IX

CONDEMNATION

If at any time or times during the continuance of ownership pursuant to this Declaration all or any part of the Common Areas shall be taken or condemned by any public authority or sold or

otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Article shall apply:

Section 1. Proceeds. All compensation damages or other proceeds therefrom, the sum of which is hereinafter are called the "Condemnation Award," shall be payable to the Association.

Section 2. Complete Taking.

(a) In the event that all of the Commons Areas are taken or condemned or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condemnation Award shall be apportioned among the Owners equally and payment of said apportioned amounts shall be made payable to the Owner and the first Mortgagee of his Lot jointly.

(b) On the basis of the principal set forth in the last preceding paragraph, the Association shall determine as soon as practicable the share of the Condemnation Award to which each Owner is entitled.

Section 3. Partial Taking. In the event that less than the entire Common Area is taken or condemned or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condemnation Award shall first be applied by the Association to the rebuilding and replacement of those improvements on the Common Area damaged or taken by the condemning public authority, unless seventy-five percent (75%) of the Owners and the first Mortgagees of each Lot agree otherwise. Any surplus of the award or other portion thereof not used for rebuilding and replacement shall be used by the Association for the future maintenance of the Common Area and exterior maintenance of the Improvements situated on each Lot.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Amended 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.

Section 2. Severability. Invalidation of any one of the terms of this Amended Declaration by judgment or court order

shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Amended Declaration shall run with and bind the land, for a term of ten (10) years from the date this Amended Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Amended Declaration may be amended during the first ten (10) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation by Declarant. Declarant, for itself, its successors and assigns, expressly reserves, until ten (10) years from the date of the recording of this Amended Declaration, the right to enlarge the Properties by annexing additional real property. All additional Common Area and Lots shall be of comparable quality and similar appearance to those previously erected upon the Properties. The reference to the Amended Declaration in any instrument shall be deemed to include any supplements to the Amended Declaration without specific reference thereto.

Such supplements to this Amended Declaration shall provide for a division of such annexed real property and improvements into Lots and Common Area similar in method and form to the division made of the Properties in this Amended Declaration.

ARTICLE XI

PROFESSIONAL MANAGEMENT

This Project may be managed by a professional real estate management company licensed to do business in the State of Colorado and the Board shall be allowed to retain the services of such a company, provided, however, that the term of any such contract shall not be in excess of one (1) year and shall be terminable on thirty (30) days' written notice, with or without cause or the payment of a termination fee. Provisions of this paragraph shall be contained, verbatim, in each of such management contracts.

IN WITNESS WHEREOF, the Declarant, the Association and no less than ninety percent (90%) of the Owners in Filing One, Filing Two and Filing Three have executed and approved this

EXHIBIT "A"

A parcel of land being a part of the W1/4 of the NE1/4NE1/4 of Section 7, Township 1 South, Range 1 East of the Ute Meridian, Grand Junction, Mesa County, Colorado and recorded in Book 1661 at Page 292 Mesa County Records, the perimeter of which being more particularly described, as a result of survey, as follows:

Beginning at a Mesa County Brass Cap at the SW Corner of said NE1/4NE1/4 Section 7, and considering the line to a Mesa County Brass Cap at the NW Corner of said NE1/4NE1/4 Section 7 to bear N 00°02'00" E with all bearings herein relative thereto; thence N 00°02'00" E on said line 392.99 feet to the Southerly line of PEPPER TREE FILING NO. THREE; thence on said Southerly line S 89°55'58" E 110.41 feet; thence S 48°33'34" E 0.07 feet to the beginning of a 172.00 foot radius curve to the left, the chord of which bears N 19°04'33" E 112.26 feet; thence on the arc of said curve and on the East right-of-way line of West Indian Creek Drive through a central angle of 38°05'36" for 114.35 feet to the beginning of a 128.00 foot radius curve to the right; the chord of which bears N 08°45'58" E 38.89 feet; thence on the arc of said curve through a central angle of 17°28'26" for 39.04 feet; thence leaving said right-of-way line S 82°17'01" E on the Northerly line of Block Five, Tract G of said PEPPER TREE FILING NO. THREE 178.74 feet to the East line of said W1/4NE1/4NE1/4 Section 7; thence S 00°01'29" W 513.81 feet to the SE Corner of said W1/4NE1/4NE1/4 Section 7; thence N 89°55'17" W 330.20 feet to the point of beginning, all in Mesa County, Colorado

EXHIBIT "B"

TRACT 1:

All of the Common Open Area in Tract A and Tract B in Block One, Pepper Tree Filing No. One, a replat of Pepperidge - Filing No. One, recorded April 29, 1982 in Plat Book No. 13 at Page 25.

TRACT 2:

All of the Common Open Area in Tract C Block One and Tract D, Block Two, Pepper Tree Filing No. Two, recorded April 29, 1982 in Plat Book No. 13 at Page 26.

TRACT 3:

All of the Common Open Area in Tract F, Block Four and Tract E, Block Three Pepper Tree Filing No. Three recorded April 29, 1982 in Plat Book No. 13 at Page 76, lying north of the following described line:

Commencing at the Northwest corner of the NE1/4 of the NE1/4 of Section 7, Township 1 South, Range 1 East of the Ute Meridian, Mesa County, Colorado; thence N. 9°00'00" E. along the North line of said NE1/4 of the NE1/4, which line is the Basis of Bearings, a distance of 165.00 feet; to the NW Corner of Peppertree Subdivision, thence S. 00°01'29" W. a distance of 804.66 feet to point of beginning, thence N. 82°15'00" W. a distance of 178.72 feet; thence a distance of 39.16 feet along a curve to the left, said curve having a radius of 128.00 feet, a chord length of 39.01 feet, and a chord bearing of S 8°48'11" W; thence a distance of 114.24 feet along a curve to the right, said curve having a radius of 172.00 feet, a chord length of 112.15 feet, and a chord bearing of S. 19°03'25" W; thence N. 89°56'00" W. a distance of 110.42 feet to a point on the West line of said NE1/4 of the NE1/4.

TOGETHER with all water, water rights, ditches and ditch rights appurtenant thereto.

TRACT 4:

Lot 4, Block 3, Pepper Tree Filing No. Three

Mesa County, Colorado

48 PAGE NO. 17

BOOK 2809 PAGE 697
1985367 02/28/01 0253PM
MONIKA TODD CLK&REC MESA COUNTY CO
REC FEE \$240.00

FIRST AMENDMENT TO
AMENDED AND RESTATED
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR PEPPER TREE
ALL FILING AND ALL PHASES

This First Amendment (the "Amendment") is an amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Pepper Tree All Filing and Phases (the "Restated Declaration"), recorded on July 21, 1993, in Book 1992, at Page 751 of the real estate records of Mesa County, Colorado. This Amendment is made effective as of its date of recording in the real estate records of Mesa County, Colorado.

RECITALS

- A. Peppertree Developments, LLC, a Colorado limited liability company ("Peppertree") is the successor to IBX, Inc., an Arizona Corporation, the Declarant defined in the Restated Declaration.
- B. The Restated Declaration applied to the properties included in several plats recorded in the real estate records of Mesa County, Colorado, including that plat known as Pepper Tree Filing No. 4, recorded in Plat Book 17, at Page 120 (the "Plat").
- C. The Plat includes six lots, which are shown as Lot 1, Lot 2, Lot 3, Lot 4, Lot 5, and Lot 6, and a tract known as Tract A.
- D. Peppertree, as the owner of Lot 6 and successor to the Declarant, desires that the Restated Declaration be amended to exempt Lot 6 from its provisions. Peppertree desires that the Recorded Declaration continue to apply to Lot 1, Lot 2, Lot 3, Lot 4, and Lot 5, Tract A, and the properties included in Filing One, Filing Two, Filing Three and Filing Three Replat, as defined in the Recorded Declaration (collectively referred to as the "Covenant Properties").
- E. The Pepper Tree Homeowner's Association, Inc., a Colorado non-profit corporation (the "Association"), and not less than 90% of the Lot Owners have voted to approve

this Amendment, as required by C.R.S. § 38-33.3-217(1) (the "Statute") and the applicable provisions of Article X, Section 3 of the Restated Declaration.


- F. The Statute allows the Restated Declaration to be amended by "vote or agreement" of the requisite number of Lot Owners. Because the provisions of the Statute may not be varied by agreement, *see* C.R.S. § 38-33.3-104, a vote of 90% of the Lot Owners is sufficient to amend the Restated Articles, and an actual instrument signed by the Lot Owners is not required.

NOW THEREFORE, Peppertree, the Association, and not less than 90% of the Lot Owners hereby declare that the Restated Declaration is amended as follows:

1. The Restated Declaration is amended to remove Lot 6, as shown on the Plat, from the definition of the "Properties" (and the "Subdivision") set forth in the Restated Declaration. As of the date of the recording of this Amendment, Lot 6 shall no longer be subject to the terms, conditions, and restrictions of the Restated Declaration or the terms, conditions, and restrictions of the Articles of Incorporation, Bylaws, and other rules and regulations of the Association (the "Governing Documents").
2. As of the date of the recording of this Amendment, the owner of Lot 6 shall no longer possess or be subject to any of the rights, privileges, or obligations of a member of the Association.
3. The Covenant Properties shall continue to be governed by and subject to the Restated Declaration and the Governing Documents, which instruments shall continue in full force and effect, except as modified herein.
4. This Amendment shall have no effect on the Plat, which shall run with Lot 6 and be binding upon all parties having any right, title or interest in Lot 6 or any part thereof, their heirs, personal representatives, successors, and assigns.

IN WITNESS WHEREOF, Peppertree and the Association, on its own behalf and on behalf of not less than 90% of the Lot Owners voting in favor of this Amendment, have executed and approved this Amendment as of the date of acknowledgment of each signature.

PEPPERTREE DEVELOPMENTS, LLC


By: Gerald A. Tucker, Member and Manager

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing First Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Pepper Tree All Filing and Phases was executed before me on this 26 day of January, 2001, by Gerald A. Tucker, as member and manager of Peppertree Developments, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

My commission expires: 6-16-2003



Rob Burnett
Notary Public

PEPPER TREE HOMEOWNERS
ASSOCIATION, INC.

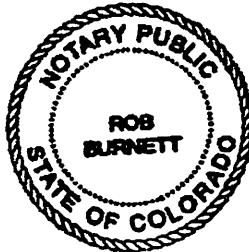
Mary Hilgenfeld
By: President

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing First Amendment to Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Pepper Tree All Filing and Phases was executed before me on this 26 day of January, 2001, by MARY HILGENFELD, as president of the Pepper Tree Homeowners Association, Inc., a Colorado nonprofit corporation.

WITNESS my hand and official seal.

My commission expires: 6-16-2003



Rob Burnett
Notary Public

APPROVAL OF FIRST AMENDMENT TO AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR PEPPER TREE ALL FILING AND ALL PHASES

The undersigned, being the owner or owners of a lot or lots subject to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Pepper Tree All Filings and Phases, recorded on July 21, 1993, in Book 1992, at Page 751 of the real estate records of Mesa County, Colorado (the "Covenants"), hereby approves of and waives all objection to the adoption of the First Amendment to the Covenants in the form attached hereto as *Exhibit A* and incorporated herein by reference.

Dated: Jan 24 01.

APPROVED:

Jessie G. Stewart
Name(s) of Owner(s) #1

2876 Cascade Ave
Address

Grand Junction, CO 81501
Address

Lot 6 in Block 2
Lot Number/Subdivision Filing (if known)

Jessie G. Stewart
Signature

Signature (if additional owners)

Signature (if additional owners)

Signature (if additional owners)

Pages 700-744 are
signature pages only
and are available
upon request.