

**NINTH SUPPLEMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
EDGEMONT HIGHLANDS**

THIS NINTH SUPPLEMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF EDGEMONT HIGHLANDS (the "Ninth Supplement to Declaration") is made and entered into this 11 day of October, 2018, by **EDGEMONT COMMUNITY PARTNERS, LLC**, a Delaware limited liability company, owning investment property in La Plata County, Colorado (hereinafter referred to as the "Declarant").

RECITALS

A. Phase 5B, The Overlook at Edgemont Highlands. Declarant is the owner of that real property located in the County of La Plata, State of Colorado, more particularly described as follows (hereinafter referred to as "Phase 5B"):

SEE EXHIBIT A, ATTACHED HERETO AND MADE A PART HEREOF BY THIS REFERENCE.

B. Edgemont Highlands Governing Documents. Declarant is the successor declarant to Highlands Development I, LLC and Highlands Development II under the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded on the 11th day of May, 2004 as Reception No. 884350 (the "Amended and Restated Declaration"), First Supplement to the Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded November 3, 2004 as Reception No. 896541 (the "First Supplement"), Second Supplement to the Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded April 11, 2005 as Reception No. 906547 (the "Second Supplement"), First Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Edgemont Highlands recorded January 10, 2006 as Reception No. 925868 (the "First Amendment"), Third Supplement to the Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded January 10, 2006 as Reception No. 925870 (the "Third Supplement"), Fourth Supplement to the Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded January 26, 2007 as Reception No. 950576 (the "Fourth Supplement"), Fifth Supplement to the Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded January 14, 2013 as Reception No. 1059149 (the "Fifth Supplement"), Sixth Supplement to the Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded November 14, 2014 as Reception No. 1089235 (the "Sixth Supplement"), Seventh Supplement to the Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded December 18, 2015 as Reception No. 1106072 (the "Seventh Supplement"), Eighth Supplement to the Declaration of Covenants, Conditions and Restrictions of Edgemont Highlands recorded July 13, 2017 as Reception No. 1130782 (Collectively the "Declaration Documents").

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C. **Plats of Edgemont Highlands - Phase 1, Phase 2A, Phase 2B, Phase 2C, Phase 4, Phase 5A, Phase 3A, Phase 3B and Phase 3C.** EDGEMONT HIGHLANDS, PHASE 1, Project No. 2003-290, was platted according to the plat thereof filed January 20, 2004 as Reception No. 877022, La Plata County, Colorado ("Phase 1"). EDGEMONT HIGHLANDS, PHASE 2A, Project No. 2004-221, was platted according to the plat thereof filed November 3, 2004 as Reception No. 896542, La Plata County, Colorado ("Phase 2A"). EDGEMONT HIGHLANDS, PHASE 2B, Project No. 2004-222, was platted according to the plat thereof filed April 11, 2005 as Reception No. 906548, La Plata County, Colorado ("Phase 2B"). EDGEMONT HIGHLANDS, PHASE 2C, Project No. 2004-261, was platted according to the plat thereof filed January 10, 2006 as Reception No. 925871, La Plata County, Colorado ("Phase 2C"). EDGEMONT HIGHLANDS, PHASE 4, Project No. 2006-0340, was platted according to the plat thereof filed January 26, 2007 as Reception No. 950578, La Plata County, Colorado ("Phase 4"). EDGEMONT HIGHLANDS, PHASE 5, Project No. 2012-0065, was platted according to the plat thereof filed January 14, 2013 as Reception No. 1059148, La Plata County, Colorado ("Phase 5A"). EDGEMONT HIGHLANDS, PHASE 3A, Project No. 2008-0187, was platted according to the plat thereof filed November 14, 2014 as Reception No. 1089234, La Plata County, Colorado ("Phase 3A"). EDGEMONT HIGHLANDS, PHASE 3B, Project No. 2015-0019, was platted according to the plat thereof filed December 18, 2015 as Reception No. 1106073, La Plata County, Colorado ("Phase 3B"). EDGEMONT HIGHLANDS, PHASE 3C, Project No. 2016-023, was platted according to the plat thereof filed July 13, 2017 as Reception No. 1130781, La Plata County, Colorado ("Phase 3C").

D. **Declaration Definitions.** Except to the extent expressly defined otherwise herein, the terms used in this Ninth Supplemental Declaration shall have the same meaning as set forth in the Declaration Documents. Specifically, the Amended and Restated Declaration provides the following pertinent definitions in Article II thereof:

"Supplemental Declaration": An instrument Recorded pursuant to Article IX which subjects additional property to this Declaration, identifies phases and neighborhoods, and/or creates or imposes additional easements, restrictions and obligations on the land described in such instrument.

E. **Expansion of Edgemont Highlands.** The Amended and Restated Declaration provides in Article 9 as follows:

9.1 Expansion by Declarant.

Declarant may subject to the provisions of this Declaration all or any portion of the property described in Exhibit "B" attached to the Amended and Restated Declaration by Recording a Supplemental Declaration describing the additional property to be subjected. A Supplemental Declaration Recorded pursuant to this Section shall not

require the consent of any Person except the owner of such property, if other than Declarant.

It is the desire and intention of Declarant to supplement the Declaration Documents for the purpose of subjecting Phase 5B to the provisions of the Declaration Documents and the Governing Documents of Edgemont Highlands and to provide for the division of Phase 5B into Lots according to the supplemental plat filed for record under Reception No. _____, (the "Phase 5B Supplemental Plat") and as defined and described by the Amended and Restated Declaration and this Ninth Supplement to Declaration.

NOW, THEREFORE, Declarant hereby supplements the Declaration as follows:

1. **Ninth Supplement to Declaration.** Declarant hereby declares that all of Phase 5B is to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the limitations, restrictions, easements, conditions and covenants of the Declaration Documents and the Governing Documents, the Plat of Phase 1 of Edgemont Highlands, the Plat of Phase 2A, the Plat of Phase 2B, the Plat of Phase 2C, the Plat of Phase 4, the Plat of Phase 5A, the Plat of Phase 3A, the Plat of Phase 3B, the Plat of Phase 3C and the Supplemental Plat, all of which are declared and agreed to be in furtherance of a plan for the protection, subdivision, maintenance, improvement and sale of Phase 5B for the purpose of enhancing the value, desirability and attractiveness of Phase 5B and for the purpose of establishing a common interest planned community pursuant to the Colorado Common Interest Ownership Act (the "Act"). All provisions of this Ninth Supplement to Declaration, including without limitation the easements, uses, obligations, covenants, conditions, and restrictions hereof, are hereby imposed as equitable servitudes upon Phase 5B. All of the limitations, restrictions, easements, conditions and covenants herein shall run with the land and shall be binding on and for the benefit of all of Phase 3C and all parties having acquired any right, title or interest in Phase 5B, or any part thereof, and their successive owners or assigns.
2. **Division Into Lots - Allocated Interests - Voting.** Phase 5B is hereby divided into lots (the "Lots"), each consisting of a fee simple interest in a Lot as shown on the Phase 5B Supplemental Plat, and the improvements and fixtures located thereon. All Units under Edgemont Highlands Phase 1, Edgemont Highlands Phase 2A, Edgemont Highlands Phase 2B, and Edgemont Highlands Phase 2C, Edgemont Highlands Phase 4, Edgemont Highlands Phase 5A, Edgemont Highlands Phase 3A, Edgemont Highlands Phase 3B, Edgemont Highlands Phase 3C and the Lots created by this Supplemental Declaration (also defined as "Units" under the Amended and Restated Declaration) shall be assessed equally pursuant to Article 8 of the Amended and Restated Declaration. Each owner of a Unit or Lot within Phase 5B shall be a Member of the Association and shall have one equal vote for each Unit in which they hold the interest required for membership under Section 6.2 of the Amended and Restated Declaration, except that there shall be only one vote per Unit. No vote shall be exercised for any property that is exempt from assessment under Section 8.8 of the Amended and Restated Declaration. All Class "A" votes shall be cast as provided in Section 6.3.3 of the Amended and Restated Declaration.

3. **Designation of The Overlook at Edgemont Highlands Neighborhood.** Lots 346 through 383 in Phase 5B as shown on the 5B Plat, which, together with Phase 5C, is hereby identified and designated as a separate Neighborhood as defined in the Amended and Restated Declaration to be known as “The Overlook at Edgemont Highlands Neighborhood”.

4. **Incorporation of Provisions of the Declaration.** All provisions of the Declaration Documents and Governing Documents are incorporated herein by this reference to the extent not inconsistent herewith. It is the purpose of incorporation of the terms of the original Amended and Restated Declaration, Declaration Documents and Governing Documents to have the provisions thereof construed to apply to and govern the management and administration of the Lots created by this Ninth Supplement to Declaration as a part of a singular common interest community consisting of the combination of the Lots established by the original Amended and Restated Declaration, Declaration Documents, together with the Lots created by this Ninth Supplement to Declaration except as may be otherwise expressly set forth herein. This includes, but is not limited to, the provisions of the Declaration Documents concerning the following subjects:
 - a. Assessments and Assessment procedures;
 - b. HOA Reserve Payment requirements by initial Lot Owners other than Declarant
 - c. Reserved Declarant Rights and Development Rights;
 - d. General Easements, in addition to those expressly set forth on the Supplemental Plat or by this Supplemental Declaration;
 - e. Membership in the Edgemont Highlands Community Association, Inc.
 - f. Amendment and Enforcement procedures;
 - g. Association powers;
 - h. Provisions regarding Common Area

5. **Legal Description.** Every deed, lease, mortgage, will or other instrument shall legally describe a Lot created by this Ninth Supplement to Declaration by its identifying Lot letter or number on the recorded plat as follows:

Lot ____, of Edgemont Highlands, Phase 5B Final Plat, Project No. 2018-0109 according to the plat thereof filed for record 06/11, 2018 under Reception No. 1149152, County of La Plata, State of Colorado.

Every instrument of conveyance, mortgage, deed of trust, or other instrument affecting the title to a Lot which legally describes said Lot in the manner set forth in this Section shall be construed to describe the Lot, together with all fixtures and improvements therein contained, and to incorporate all the rights incident to ownership of a Lot and all the limitations of ownership as described in the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Ninth Supplement to Declaration, including the owner's membership in the Edgemont Highlands Community Association, Inc., and the easement of enjoyment to use the Common Area.

6. **Common Area/Open Space.** Declarant shall convey the initial Common Area/Open Space shown on the Supplemental Plat to the Association prior to the conveyance of a Unit to any Person other than a Builder. Such Common Area/Open Space shall, in all respects, be subject to the same terms, conditions, provisions, restrictions and obligations as set forth in the Amended and Restated Declaration and Governing Documents with respect to Common Area/Open Space within Phase 1, Phase 2A, Phase 2B, Phase 2C, Phase 4, Phase 5A, Phase 3A, Phase 3B and Phase 5B, except that Declarant reserves the right to grant access, utility, drainage, trails, parking and driveway easements across Open Space/Common Areas AG, AH, AI, AJ and AK, as shown on the Phase 5B Final Plat.
7. **Neighborhood Architectural Guidelines and Landscaping Guidelines.** Pursuant to Section 4.1.1 and Section 9 of the Amended and Restated Declaration the Declarant may apply Architectural Guidelines and Landscaping Guidelines to Edgemont Highlands that vary from neighborhood to neighborhood.
 - a. The Overlook at Edgemont Highlands Neighborhood Supplement to Architectural Guidelines. Declarant hereby declares that The Overlook at Edgemont Highlands Neighborhood is to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the limitations, restrictions, and provisions of the Comprehensive Amended and Restated Architectural and Landscaping Guidelines of Edgemont Highlands as modified by provisions of Second Modification of the Comprehensive Amended and Restated Architectural and Landscaping Guidelines of Edgemont Highlands attached hereto as Exhibit B and incorporated herein by this reference.
8. **Effective Date.** Pursuant to Section 9.4 of the Amended and Restated Declaration, Declarant hereby declares the Effective Date of this Ninth Supplement to Declaration with respect to assignment of voting rights and assessment liability shall be delayed until a date certain stated by Declarant in a supplemental instrument recorded in the real estate records of La Plata County, Colorado, which makes reference to this instrument.
9. **Incorporation of Consistent Terms of Declaration.** To the extent not inconsistent herewith, all other terms and conditions of the Declaration Documents shall remain the same.
10. **General Provisions.**
 - a. If any of the provisions of this Ninth Supplement to Declaration or any paragraph, sentence, clause, phrase or word, or the application therein in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Supplemental Declaration, and the application of any such provisions, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

Exhibit A

EDGEMONT HIGHLANDS – PHASE 5B

Legal Description

Edgemont Highlands, Phase 5B, Project No. 2018-0109 according to the final plat thereof filed for record Oct 11, 2018 under Reception No. 1149152, County of La Plata, State of Colorado.

Exhibit B

**SECOND MODIFICATION TO THE COMPREHENSIVE AMENDED
AND RESTATED ARCHITECTURAL AND LANDSCAPING GUIDELINES
FOR EDGEMONT HIGHLANDS**

As recorded 04/11, 2018 under Reception No. 1149157, County of La Plata, State of Colorado.