

**AMENDED AND RESTATED  
PROTECTIVE COVENANTS  
OF  
TREE HAUS, FILING NO. 1  
(November 5, 2013 DRAFT)**

**TABLE OF CONTENTS**

**Recitals .....Page 3**

**1. Architectural Guidelines .....Page 5**

**A. Committee .....Page 5**

**B. Plans and Specifications .....Page 5**

**C. Review Process .....Page 6**

**D. Roofs .....Page 7**

**E. Walls.....Page 8**

**F. View Obstruction .....Page 8**

**G. Landscaping.....Page 9**

**H. Color .....Page 9**

**I. Setbacks .....Page 9**

**J. Height Restrictions .....Page 10**

**K. Pre-Existing Structures.....Page 10**

**2. Temporary Structures .....Page 11**

**3. Continuity of Construction .....Page 11**

**4. Land Use and Building Type.....Page 11**

**A. Single Family Use and Exceptions.....Page 11**

**B. Mother-in-Law Units .....Page 12**

**C. No Re-Subdivision .....Page 12**

**5. Easements .....Page 12**

**6. Water and Sanitation.....Page 13**

**7. Garbage and Refuse Disposal .....Page 13**

**8. Nuisances .....Page 13**

**9. Maintenance of Landscaping and Improvements .....Page 13**

**10. Oil and Mining Operations .....Page 14**

**11. Signs .....Page 14**

**12. Pets .....Page 14**

**13. Roads.....Page 14**

**14. Fence and Propane Tanks .....Page 15**

**15. Parking.....Page 15**

**16. Commercial and Recreational Vehicles .....Page 15**

**17. Homeowners Association.....Page 15**

**18. Severability .....Page 16**

**19. Enforcement .....Page 16**

**20. Duration of Amendment.....Page 16**

**AMENDED AND RESTATED  
PROTECTIVE COVENANTS  
OF  
TREE HAUS, FILING NO. 1  
(October 3, 2013 DRAFT)**

**RECITALS**

A. The subdivision plat for Tree Haus, Filing No. 1 (as amended, the "Tree Haus Plat") creating a subdivision (the "Subdivision") consisting of 120 single-family lots (individually referred to herein as a "Lot" and collectively as the "Lots") was recorded in the Routt County real estate records at File No. 7075 on December 10, 1971.

B. The Protective Covenants of Tree Haus, Filing No. 1 were recorded November 22, 1971 at Book 352, Page 701 (the "Original Covenants" and as amended herein, the "Covenants").

C. Paragraph 16 of the Original Covenants designates the Tree Haus Homeowners Association, a nonprofit corporation, incorporated November 29, 1971 as the association of the Lot owners for the Subdivision (the "Association").

D. The Association was dissolved on December 6, 1977 for failure to file annual reports and was reinstated on November 13, 2006 under the name of Tree Haus Homeowners Association Reinstated 2006.

E. On June 25, 2013, the name of Tree Haus Homeowners Association Reinstated 2006 was changed to Tree Haus Homeowners Association. The Tree Haus Homeowners Association constitutes the legally established association of Lot owners for the Tree Haus Subdivision, Filing No. 1 under the Covenants.

F. On July 8, 2012, at the annual meeting of the Association, the Lot owners reviewed draft amendments to the Original Covenants for the purpose of updating the provisions of the Original Covenants and deleting obsolete provisions, and directed the Board of Directors of the Association ("Board") to submit proposed amended and restated Covenants to the Lot owners for approval.

G. The Subdivision is a common interest community under the Colorado Common Interest Ownership Act ("CCIOA") as set forth in Title 38, Article 33.3 of the Colorado Revised

Statutes because assessments are imposed by the Association against each Lot within the Subdivision for, among other things, enforcement of the Covenants and maintenance of that real property encumbered by that certain easement in favor of the Association recorded at Reception No. 738783 of the Routt County records.

[The following paragraph will be included if not less than 67% of the Lot owners vote in favor of the amendment to the Covenants].

H. By action by written ballot completed \_\_\_\_\_, 2013 under C.R.S. §7-127-109 and in accordance with the provisions set forth in CCIOA, C.R.S. §38-33.3-217(1) the owners of Lots within the Subdivision to which are allocated not less than sixty-seven percent (67%) of the number of votes within the Association voted in favor of the amendments to the Original Covenants as set forth in these Amended and Restated Protective Covenants of Tree Haus, Filing No. 1.

[The following italicized Paragraphs I through L will be omitted if the Covenants are amended by affirmative vote of not less than sixty-seven percent (67%) of the Lot owners].

*I. By action by written ballot completed \_\_\_\_\_, 2013 under C.R.S. §7-127-109 and in accordance with the procedures set forth in CCIOA, C.R.S. §38-33.3-217(7) owners of Lots within the Subdivision to which are allocated more than 50% of the number of votes within the Association voted in favor of these amendments to the Original Covenants as set forth in these Amended and Restated Protective Covenants of Tree Haus, Filing No. 1.*

*J. Further, all notices required under C.R.S. §38-33.3-217(7) have been given to Lot owners and lenders holding a security interest in any Lot.*

*K. On \_\_\_\_\_, 2013 the Association filed a petition with the Court for approval of the amendments to the Covenants, the District Court held a hearing on such petition on \_\_\_\_\_, 2013 and found that all requirements of the C.R.S. §38-33.3-217(7) had been satisfied and that the Court should authorize the amendment of the Covenants as set forth in these Amended and Restated Protective Covenants of Tree Haus, Filing No. 1.*

*L. On \_\_\_\_\_, 2013 the Court granted such petition and entered its order recorded at Reception No. \_\_\_\_\_ of the Routt County records approving these Amended and Restated Covenants of Tree Haus, Filing No. 1 and requiring the Association to record the amendment in the records of the Routt County Clerk and Recorder.*

<p>* This section will be omitted if not less than 67% of the Lot owners vote in favor of the amendment to the Covenants.</p>
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NOW, THEREFORE, [*pursuant to the order the District Court entered in Case No. 13CV\_\_\_\**] the Original Covenants are hereby amended and restated in their entirety as herein set forth and, effective the date of recording hereof, the following covenants, easements, reservations or requirements shall encumber all the Lots and all the other lands within the Subdivision. Said protective covenants, easements, reservations and requirements shall run with the land and all are for the benefit of each owner of land in the Subdivision, or any interest therein and shall inure to and pass with each and every parcel of the Subdivision and shall bind the respective successors in interest of the present owner thereof and all tenants and other persons occupying any Lot within the Subdivision.

1. ARCHITECTURAL GUIDELINES:

A. Committee. There shall be five (5) members of the Architectural Control Committee (“Committee”). The members of the Committee shall be individual members of the Association or the representative of an organizational member of the Association. The members of the Committee shall be appointed by and serve at the pleasure of the Board of Directors of the Association (“Board”). If no Committee is appointed by the Board, the Board shall constitute the Committee.

B. Plans and Specifications: All plans for the construction of any building, private road or driveway, fence, wall or other structure to be erected upon any Lot and the proposed location thereof upon any Lot and any changes after approval thereof, or any exterior remodeling, reconstruction, alteration or addition to any building, road, driveway or other structure upon any Lot, shall require the approval in writing of the Committee.

Before beginning the construction of any building, road or driveway, fence, wall or other structure whatsoever, or remodeling, reconstruction or altering such road, driveway or structure upon any Lot, the person or persons desiring to erect, construct or modify the same shall submit to the Committee:

- (i) two complete sets of plans and specifications thereof including front, side and rear elevations, floor plans for each floor and basement and exterior color schemes,

(ii) two block or plot plans indicating and fixing the exact location of such structure or such altered structure on the building site with reference to the street and side lines thereof,

(iii) if requested by the Committee, two copies of a landscaping plan, grading plan and survey, and

(iv) two copies of a construction management plan showing the location of parking, material storage, and the construction dumpster and prohibiting construction workers from keeping dogs in vehicles or on the job site during work hours.

In the event the proposed improvement shall be one for repainting or redecorating the exterior of any structure without remodeling or changing it, or making additions thereto, it shall only be necessary to file two copies of the proposed color scheme of such work and have the same approved by the Committee prior to the commencement of such work.

C. Review Process: No structure of any kind, the plans, elevations and specifications of which have not received the written approval of the Committee and which does not comply fully with such approved plans and specifications, shall be erected, constructed, placed or maintained upon any Lot. Approval of such plans and specifications shall be evidenced by written endorsements on such plans or specifications, a copy of which shall be delivered to the owner or owners of the Lot upon which the prospective building, road, driveway or other structure is contemplated, prior to the beginning of such construction. No changes or deviations in or from such plans and specifications as approved shall be made without the prior written consent of the Committee.

The Committee, as authorized by the Board, shall have the authority to engage the services of an architect to review plans and specifications submitted and to make recommendations to the Committee to assist it in evaluating such plans and specifications. The Committee may designate one or more of its members to be the liaison with the architect for purpose of review of the plans and specifications. The applicant shall reimburse the Association for the fees incurred to retain the services of the architect up to a maximum of \$500.00.

The approval by the Committee of any plans and specifications submitted for approval, as herein specified, shall not be deemed to be a waiver by the Committee of the right to object to any of the features or elements embodied in such plans or specifications if and when the same

features or elements are embodied in any subsequent plans or specifications submitted for approval for use on other building sites.

The Association may at any time upon reasonable advance notice inspect any building or property located in the Subdivision for the purpose of determining whether the exterior of said building conforms to these Covenants.

The Committee may grant variances to the provisions contained in these Covenants as it deems appropriate. Structural engineering shall be the responsibility of the owner. No variance shall be granted to the height restrictions set forth herein unless, not less than thirty (30) days in advance of the date the Committee acts on any such height variance request, the Committee gives notice of the pending variance request by first-class US Mail to the owner of any Lot which abuts the subject lot or is separated from the subject lot only by public right-of-way and posts notice of the proposed variance on the Associations website.

In review of any plans and specifications, it shall be an objective of the Committee to make certain that no improvement will be so similar or so dissimilar to others in the vicinity that values, monetary or aesthetic, will be impaired, and to maintain for the benefit of the Association and all subsequent individual Lot owners the natural character of the land and to require that all man-made structures blend into the natural background rather than stand out against it.

If the Committee does not approve or disapprove the plans and specifications within sixty (60) days after submission of final complete plans, such plans and specifications shall be deemed approved. No review or approval by the Committee shall constitute an expressed or implied warranty of any nature as to the plans, specifications or other matters in question, including whether such plans, specifications and any structure built pursuant thereto satisfy County requirements, are complete, or correct or properly designed or engineered. The Committee shall not arbitrarily deny plans and specifications submitted for its consideration under this Paragraph 1.

The Committee shall further consider the following architectural guidelines:

D. Roofs:

(i) The following roofing materials shall be permitted: composition shingles, composition shakes, painted, baked or ceramic tile, metal, aluminum, concrete, terra cotta, copper, slate or stone.

(ii) The pitch of roofs shall not be less than four (4) inches in twelve (12) for primary roofs. Roofs shall overhang the exterior walls of the building at the most outside point by a distance of not less than 24 inches, measured horizontally. This applies on all sides of the building, whether the roof is gabled or hipped. The design of all shed roofs shall be subject to specific approval of the Committee and such shed shall be constructed of exterior materials compatible with the residence on the Lot. No geodesic domes shall be permitted.

(iii) Garish or shiny roof materials are prohibited.

E. Walls: The exterior walls of the principal buildings and any outbuildings shall be as follows:

(i) Unless otherwise agreed by the Committee, the surface of the wall from one corner of the building to the next shall be broken at least once on any one façade or elevation of the building by a change in direction and then a return to the original direction. Said change must be a minimum of 12 inches, preferably greater.

(ii) The following materials shall not be used: asbestos, composition materials, paper or tar paper. The following materials shall be permitted: wood, stone, stucco, fiber cement siding such as Hardi Plank, and architectural copper, steel, aluminum, concrete block or minimal poured concrete, provided that the design of any such architectural wall treatment is subject to approval by the Committee. Other materials will be considered and must be approved by the Committee.

F. View Obstruction: No structure shall be erected which unreasonably obstructs or interferes with a Lot's view from a neighboring residence, unless the Committee determines that:

(i) No further alterations or accommodations to the proposed structure can be reasonably incorporated to lessen the impact on the view, or

(ii) Incorporating such alterations or accommodations would make completion of the project impractical.

(iii) Criteria for determining an Unreasonable Structural Obstruction:

a) The vantage point(s) from which the view is enjoyed;

- b) The extent of the view obstruction, as measured by the percentage of ninety degree view that would be affected; and
- c) The extent to which the view is diminished by factors other than the proposed construction;
- d) The distance between the affected owner's home and the proposed construction; and
- e) The quality of the view, including the existence of landmarks or other unique view features.

G. Landscaping: All landscaping plans must be approved in advance by the Committee. In general, landscaping shall be compatible with the natural terrain. The arrangements of planting should be such as to cause a uniform transition from the immediate site of construction, and all of this transition should occur within the building area. Driveways requiring cuts or fills in the land must be landscaped. In connection with any approval given hereunder for the construction or extensive exterior remodel of an existing residence involving the addition of new space to such residence the Committee may condition such approval on a requirement that the Lot owner create a defensible space for fire protection purposes.

H. Color: A complete exterior color scheme shall be submitted to the Committee with the plans of each structure, and such color scheme shall include a description of all visible materials to be used and all artificial coloring to be applied thereto, including paints, stains, varnish or any other surfacing whatsoever. Use of colors and materials which are indigenous to the area and which will blend in with the site are encouraged. In addition, the owner shall furnish, upon the request of the Committee, actual color samples, i.e., a stain sample on the wood to be used.

I. Setbacks:

- (i) Side yard setback – 20 feet from each property line.
- (ii) Front yard setback - 15 feet from the property line.
- (iii) Back yard setback - 20 feet from the property line.

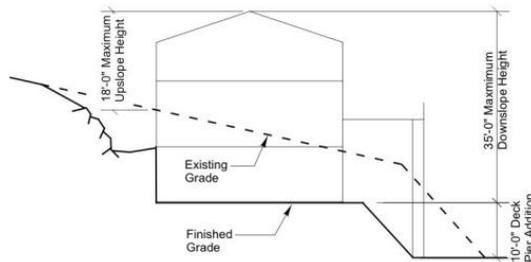
Exceptions to the above setbacks may be granted by the Committee to accommodate unforeseen aesthetic and site advantages, and to avoid cutting prime trees.

J. Height Restrictions:

The height of a building shall meet all of the following criteria:

Maximum Overall Building Height- 35'-0"

Maximum Upslope Building Height- 18'-0"



In the case of construction on a gently-sloped lot, a moderate upslope height increase may be proposed to the Committee. The Committee will use the requirements of these Covenants and will exercise flexibility in considering variance requests.

**Overall Building Height Definition:** The maximum vertical rise from the lowest grade on the perimeter of the building to the highest point of the building. Grade shall be measured from the existing, or finished grade, whichever is more restrictive. Additional height not exceeding 10'-0" over and above the maximum height will be allowed for deck piers. Antennae (except those exempted by federal regulations), chimneys, flues, vents and similar unoccupied appurtenances shall not extend more than five feet (5'-0") above the maximum height limit. Such unoccupied appurtenances on the roof shall not exceed five percent (5%) of building footprint area.

**Upslope Building Height Definition:** The maximum vertical rise from the lowest grade on the upslope side of the building to the highest point of the building. Grade shall be from the original historical natural grade only.

K. Pre-Existing Structures: No change to the architectural guidelines set forth in Paragraph 1 of these Covenants from the architectural guidelines in Paragraph 1 of the Original

Covenants shall be applicable to structures existing within the Subdivision on the date of recording of these Covenants except to the extent the structure is demolished and rebuilt or substantial remodeling of such structure is proposed, which remodeling would increase non-conformity with the provisions of Paragraph 1 of these Covenants.

2. TEMPORARY STRUCTURES: Temporary structures shall be permitted during the period of construction of such dwelling house as is permitted hereby, but such temporary structure shall be removed within thirty (30) days after completion of said dwelling house or within twelve (12) months of the date said temporary structure was erected, whichever period expires first. No house trailer or mobile home shall be parked on any Lot or dwelling site unless used as a temporary structure for the period referred to herein.

3. CONTINUITY OF CONSTRUCTION: A house shall be completed within twelve (12) months from date of commencement of construction, excepting only with written consent of the Association. Open storage of building materials will be permitted during construction only for a period not to exceed twelve (12) months.

4. LAND USE AND BUILDING TYPE:

A. Single Family Use and Exceptions: The Lots, and each and every one thereof are for single-family residential purposes only, except as otherwise set forth herein. No retail, wholesale, manufacturing or repair business of any kind shall be permitted on any Lot or in any dwelling or appurtenant structure erected thereon, except for home occupations allowable under applicable Rout County regulations. No more than one dwelling unit shall be permitted on any Lot, but nothing in this paragraph 4 shall prohibit the continuation of two dwelling units on a Lot if the two dwelling units were in existence on such Lot on January 1, 2013 and the owner of such Lot submits to the Association no later than 90 days following the date of recording of these Amended and Restated Covenants a statement of registration on a form provided by the Association stating the name of the Lot owner, the Lot number, the square footage of the units on the Lot and such additional proof and information as the Association may require, establishing that two dwelling units existed on such Lot on January 1, 2013, and the Association accepts such

registration. For the purpose of these Covenants, the term “dwelling unit” shall be defined and interpreted pursuant to the Routt County Zoning Regulations, as the same may be from time to time amended. If one or both units on a Lot for which a registration has been submitted and accepted by the Association are destroyed by casualty or demolished, such unit or units may be replaced notwithstanding any restrictions contained elsewhere in these Covenants but only if after such replacement the total square footage of such units does not exceed the total square footage of dwelling units shown and approved on the registration for such Lot.

B. Mother-in-Law Units: Mother-in-law or caretaker units proposed to be constructed after the date of recording of these Amended and Restated Covenants may be allowed by the Board if (a) such proposed unit complies with applicable county zoning requirements, (b) such mother-in-law or caretaker unit does not exceed 800 square feet in size and (c) the owner of the Lot on which it is proposed to be constructed agrees in recorded instrument in form prescribed by the Association containing such provisions as the Association shall reasonably require that such unit will not be rented for monetary compensation.

C. No Re-Subdivision. No Lot shall be re-subdivided into smaller Lots or conveyed or encumbered in less than full dimensions as originally platted, but lot line adjustments approved by Routt County and the Association shall be permitted if such change in Lot size does not increase the residential density allowable on such Lot under applicable Routt County regulations or if the owner of such Lot in connection with such approval agrees in a recorded instrument enforceable by the Association to prohibit the construction of more than one dwelling on such Lot.

5. EASEMENTS: Easements for installation and maintenance of utilities, drainage facilities, roads and other reserved areas, are and will be reserved as shown on the recorded map and plat of said subdivision. Within said easements, no structure, planting or other material shall be placed or permitted to remain, which might damage or interfere with the installation or maintenance of any of such reserved areas. The easement area of each Lot and all improvements on it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

6. WATER AND SANITATION: All lavatories and toilets shall be installed indoors and connected with the public sewer system, to be provided by the Tree Haus Metropolitan District. Each owner shall, upon water and sewer service being available to his Lot, at his expense, connect his water and disposal systems to said water and sewer facilities.

7. GARBAGE AND REFUSE DISPOSAL: No site shall be used or maintained as a dumping ground for rubbish. Trash, garbage, refuse or obnoxious or offensive material shall not be permitted to accumulate on any site and garbage and trash receptacles shall be placed where they shall not be visible from off-premises except in preparation for pickup. Each Lot owner shall be responsible for periodic removal of the trash, garbage and rubbish at sufficient intervals so that no site shall become unsightly. The burning of trash, garbage and rubbish is prohibited. Fly tight and bear and bird proof containers are required for the storage of garbage and refuse, pending its removal and disposal. Garbage and refuse shall not be placed outside for pickup earlier than the day of pickup and receptacles shall not be left at roadside after the day of pickup

8. NUISANCES: No Lot shall be used for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye, nor shall any substance, thing or material be kept upon any Lot that will emit foul or obnoxious odors or that will cause any noise that shall disturb the peace, quiet, comfort or serenity of the occupants of surrounding property. Neither the provisions contained in this paragraph or in paragraph 7 shall preclude the use of fireplaces in residences for the burning of wood or wood products. No Lot shall be used in whole or in part for public gatherings, concerts or other open public activities without the consent of all adjoining property owners and the consent of the Association.

9. MAINTENANCE OF LANDSCAPING AND IMPROVEMENTS: Each Lot owner shall be responsible for controlling noxious weeds on his or her Lot according to applicable regulations under the Routt County Noxious Weed Management Plan. Each Lot owner shall also keep landscaping in good condition, making certain to remove diseased or dead vegetation, whether it is standing or lying on the ground. In addition, each Lot owner shall

maintain a defensible space for fire protection purposes. The exterior of all structures and other improvements located on the Lot shall be kept in good condition and repair.

10. OIL AND MINING OPERATIONS: No oil drilling, oil development operations oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot or parcel, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot or parcel.

11. SIGNS: No signs or other advertising device of any character shall be erected, pasted, posted, displayed or permitted upon or about any part of said real property without the written permission of the Association. Nothing herein shall prevent the erection of property identification signs provided by the Association and of a sign on each Lot stating the name of the owner, but such signs shall be no larger than six (6) inches by twenty-four (24) inches and shall be of material and colors which blend in with the landscape. Real estate for sale, rent or lease signs are prohibited except for standard signs made available by the Association for a \$100 deposit, \$75 of which is returned when the sign is returned. Any damage to signs supplied by the Association under this paragraph shall be repaired by the Association at the expense of the owner on whose Lot such sign is located. This paragraph 10 does not prohibit political signs meeting the requirements of C.R.S. §38-33.3-106.5 (1) (c).

12. PETS: No animals, reptiles, birds or fowl shall be kept or maintained on any Lot except dogs, cats, pet fish and birds, which may be kept thereon as pets for the pleasure and use of the resident but not for any commercial use or purpose, including breeding. All dogs must be kept on a leash when they are outside the Lot owner's property lines and must not become a nuisance to other residents by barking, violence, or other acts, and each Lot owner shall immediately clean up animal droppings of his or her pet and shall suitably dispose of the same in a sanitary manner.

13. ROADS: Roads providing access to the Lots in this Subdivision are shown on the recorded map and plat of said property. Any private roads and driveways shall be constructed and maintained by the Lot owner, and such private roads and driveways shall be constructed with

proper drainage and necessary culverts subject to the provisions contained in paragraph 1. Any driveway constructed after July 1, 2013 shall be paved. Snow removal on any private road and driveway upon any Lot shall be done in such a manner so that the roads as shown on the recorded map and plat of said property shall not be blocked or the drainage thereof impaired.

14. FENCES; PROPANE TANKS: Fences are generally discouraged. In no event shall any fence be permitted in a location more than 16 feet from the building structure. The use of any metal fence on any Lot is prohibited, except for dog runs reasonably screened from adjacent Lots and the street and approved by the Committee. Propane tanks installed after July 1, 2013 shall be buried. .

15. PARKING: No vehicles shall be parked or kept on any of the roads as shown on the recorded map and plat of said property, it being the obligation of each Lot owner to provide proper parking on his Lot to accommodate himself and his guests. On street parking for a continuous period not exceeding twelve (12) hours shall be authorized for special events. On street construction parking shall be authorized in accordance with a construction management plan approved by the Committee.

16. COMMERCIAL AND RECREATIONAL VEHICLES: No commercial vehicle, construction equipment or like equipment, including but not limited to trucks (other than pickup trucks) and trailers of any kind, shall be permitted on any Lot of the Subdivision unless first approved by the Association. No recreational vehicle may be parked on a Lot for a period exceeding seven (7) days unless such vehicle is in a garage or completely shielded from the public right-of-way by landscaping or other visual barrier.

17. HOMEOWNERS ASSOCIATION: For the purpose of maintaining any common areas in which the Association owns a property interest, enforcing these Covenants and providing all common community services of every kind and nature required or desired within the Subdivision for the general use and benefit of all Lot owners, each and every Lot owner, in accepting a deed for any Lot in such premises, agrees to and shall be a member of and be subject to the obligations and duly enacted bylaws and rules of the Association.. The obligation of Lot owners to pay dues and assessments for the common expenses of the Association and to provide

for the establishment and collection of such dues and assessments shall be set forth in the bylaws of the Association.

18. SEVERABILITY: Invalidation of any one or more of these Covenants by court order shall not affect any of the remaining covenants or provisions which shall remain in full force and effect.

19. ENFORCEMENT: Enforcement may be initiated exclusively by the Association, and shall be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any of these Covenants, either to restrain such violation or to recover damages for violation of the same, and such judgment obtained against any violator shall include reasonable attorney's fees to be determined by the court and court costs. The failure of the Association to enforce any of the restrictions herein set forth at the time of its violation shall in no event be deemed to be a waiver of the right to do so thereafter. Any Lot Owner may request by written notice given by US-Mail or email, or in person at a meeting of the Board, that the Board enforce any provision of these Covenants. Lot owners shall advise their tenants and management companies of the provisions of these Covenants. In any action or proceeding to enforce these Covenants in which the Association is the prevailing party, the Association shall recover from the Lot owner its costs and expenses of such action, including reasonable attorney's fees.

20. DURATION AND AMENDMENT: The provisions of these protective covenants are to run with the land and shall be binding upon all parties and all persons claiming under them for a period of twenty (20) years from the date they are recorded, after which time said protective covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument executed by the Association has been recorded, agreeing to terminate said protective covenants or change them in whole or in part. These protective covenants may be amended by the affirmative vote or agreement of Lot owners to which more than fifty percent (50%) of the votes allocated to and Lot owners in the Subdivision at any meeting where the question of amending these Covenants is properly considered.

**CERTIFICATE OF SECRETARY**

I hereby certify that by action by written ballot completed \_\_\_\_\_, 2013 pursuant to C.R.S. §7-127-109 owners of Lots within the Subdivision to which are allocated not less than sixty-seven percent (67%) of the number of votes within the Association voted in favor of the amendments to the Original Covenants as set forth in these Amended and Restated Protective Covenants of Tree Haus, Filing No. 1.

\_\_\_\_\_  
Secretary