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STATE OF COLORADO)
ARCHULETA COUNTY)

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
COLORADO'S TIMBER RIDGE SUBDIVISION**

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**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS,
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FOR
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THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS for Colorado's Timber Ridge Subdivision, Archuleta County, Colorado is made effective upon recording.

RECITALS:

A. Colorado Timber Ridge Ranch, L.P., a California limited partnership authorized to do business in Colorado ("Declarant") recorded the Declaration of Protective Covenants, Conditions and Restrictions for Colorado's Timber Ridge Subdivision on August 26, 1999 at Reception No. 99008851 (the "Original Declaration"), as amended by the First Supplemental Declaration recorded on December 5, 2000 at Reception No. 20011530 (the "First Supplement"), and the Second Supplemental Declaration recorded on December 19, 2002 at Reception No. 20212642 (the "Second Supplement") (hereinafter referred collectively as the "Original Declaration"). The Original Declaration submitted certain property, as described in Exhibit A, to its terms, conditions, covenants and restrictions.

B. Article XIV of the Original Declaration states that the Original Declaration may be amended upon the written consent by the owners of 75% or more of the lots in the Property. Pursuant to C.R.S. Section 38-33.3-217, any owner approval percentage requirement greater than 67% is declared void as contrary to public policy and is deemed to be reduced to require approval of 67% of the owners. Accordingly, Article XIV is deemed to require the written consent by the owners of 67% of the lots in the Property.

C. The Association desires to protect and maintain the Common Interest Community as a prime mountain residential area of high quality and value to enhance and protect its desirability and attractiveness, to provide for the maintenance of the Common Elements serving the Common Interest Community, and to further the interests of the residents of the Common Interest Community and Members of the Association, as may be more fully set forth in this Declaration.

D. The purposes of Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements include, but are not limited to the following: to consolidate and update the Original Declaration and the supplements thereto to comply with current state law, to delete provisions that are no longer applicable, to remove unreasonable restrictions on the Community, to update provisions so as to allow the Board of Directors to efficiently operate the Community and to deal with Community concerns, and to add provisions that provide tools for the Association to effectively solve problems and enforce the Declaration, Bylaws and rules and regulations.

E. The owners of 67% or more of the Lots have given their written consent to this Amended and Restated Declaration (hereinafter referred to as the "Declaration") and such owners have determined this Declaration to be reasonable and not burdensome.

NOW, THEREFORE, the Original Declaration is replaced by the covenants, servitudes, easements and restrictions set forth below:

**ARTICLE I
PROPERTY SUBJECT TO THE DECLARATION**

The Property which is held, sold, and conveyed subject to this Declaration and to the Act is described on Exhibit A. The plats relating to the Community are in the records of the Clerk and Recorder of Archuleta County, Colorado and are incorporated herein by reference as fully as if the same were set forth in their entirety.

**ARTICLE II
DEFINITIONS**

Generally, terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall have their normal, generally accepted meanings or the meanings given in the Act or the Colorado Revised Nonprofit Corporation Code. Unless the context otherwise requires, the following terms when used in this Declaration, the Bylaws and the Articles of Incorporation shall have the following meanings:

Section 2.1 “Act” means the Colorado Common Interest Ownership Act, C.R.S. §§38-33.3-101, *et seq.*, Colorado Revised Statutes, as it may be amended from time to time.

Section 2.2 “Articles” means the Articles of Incorporation for Colorado’s Timber Ridge Homeowners Association (the “Association”), which are on file with the Colorado Secretary of State, as may be amended from time to time.

Section 2.3 “Assessments” means the Annual, Special, Specific and Default Assessments levied pursuant to Article VIII.

Section 2.4 “Association” means the Colorado’s Timber Ridge Homeowners Association, a Colorado non-profit corporation.

Section 2.5 “Association Documents” means this Declaration, the Plats, the Articles of Incorporation, and the Bylaws of the Association, and any design guidelines, procedures, rules, regulations, or policies adopted under such documents by the Association.

Section 2.6 “Board of Directors” (the “Board”) means the governing body of the Association elected to perform the obligations of the Association relative to the operation, maintenance, and management of the Common Interest Community and all improvements on the Common Interest Community.

Section 2.7 “Bylaws” means the Bylaws adopted by the Association, as amended from time to time.

Section 2.8 “Common Elements” means all the real property and improvements thereon, if any, in which the Association owns an interest and/or real property which is subject to this Declaration but not located within the boundaries of a Lot. Such interest may include, without limitation, estates in fee, for terms of years, or easements.

Section 2.9 “Common Expense” means: (a) all expenses expressly declared to be common expenses by this Declaration, or the Bylaws of the Association; (b) all other expenses of administering, servicing, conserving, managing, maintaining, or repairing the Common Elements or otherwise discharging the Association’s responsibilities; (c) insurance premiums for the insurance carried under Article VII; and (d) all expenses lawfully determined to be common expenses by the Board of Directors of the Association, including, but not limited to, any allocations to reserves.

Section 2.10 “Common Interest Community” means all of the property in Exhibit A.

Section 2.11 “Community-Wide Standard” means the standard of conduct, maintenance, or other activity generally prevailing within the Common Interest Community. Such standard may be more specifically determined by the Board of Directors and the IRC.

Section 2.12 “Director” means a member of the Board of Directors of the Association.

Section 2.13 “Equestrian Facility” means any recreational facility that may be provided to support horsemanship and other horse related events, and may include a stable, shelter, arena or other related improvements. Any such Equestrian Facility shall be a Common Element and the Association shall have all powers to govern its operation, maintenance and management. Such powers shall include, but not be limited to: obtaining and maintaining adequate liability and property insurance; the adoption of rules and regulations governing the use of the Equestrian Facility; the ability to license or charge fees for the use of the facility and/or its equipment, including stall rentals; the ability to hire or contract for the management of the facility; the ability to purchase equipment, including tack; the procurement of any licensure in connection with the operation of the facility; and all other powers necessary and incidental to operate and maintain the facility for the benefit of the Lot Owners.

Section 2.14 “Improvements” means any addition, construction, structure, equipment, fixture or facilities existing or to be constructed on a Lot, including but not limited to residential dwellings, accessory buildings, recreational courts and equipment, swimming pools, flag poles, fences, driveways, trees and shrubbery, landscaping, paving, utility wires, pipes, and light poles.

Section 2.15 “Lot” means any plot of land within the Common Interest Community, which is designed for separate ownership or occupancy, the boundaries of which are shown on the Plat. For purposes of the Act, “Lot” shall have the same definition as the term “Unit” has under the Act.

Section 2.16 “Lot Owner” or “Owner” means the record titleholder of a Lot, but does not include a Person having only a security interest or any other interest in a Lot solely as security for an obligation.

Section 2.17 “Member” means every person or entity that holds membership in the Association.

Section 2.18 “Person” means an individual, corporation, trust, partnership, limited liability company, association, joint venture, government, government subdivision or agency or other legal or commercial entity.

Section 2.19 “Phase One” shall mean that portion of the Property identified in the plat recorded on August 26, 1999 at Reception No. 99008647 and the Replat of Lots 64, 65 and 66 recorded on February 15, 2000 at Reception No. 20001594 in the office of the Clerk and Recorder of Archuleta County, as may be amended.

Section 2.20 “Phase Two” shall mean that portion of the Property identified in the plat recorded on December 5, 2000 at Reception No. 20011528 in the office of the Clerk and Recorder of Archuleta County, as may be amended.

Section 2.21 “Phase Three” shall mean that portion of the Property identified in the plat recorded on December 4, 2001 at Reception No. 20110833 in the office of the Clerk and Recorder of Archuleta County, as may be amended.

Section 2.22 “Phase Four” shall mean that portion of the Property identified in the plat recorded on December 19, 2002 at Reception No. 20212641 in the office of the Clerk and Recorder of Archuleta County, as may be amended.

Section 2.23 "Plat" means, collectively, the land survey plats depicting any portion of the Common Interest Community, recorded in the records of Archuleta County, Colorado including the plats referenced in Section 2.19 through 2.22 for Phases One through Four and including any plats properly recorded after the effective date of this Declaration describing any portion of the Common Interest Community..

Each capitalized term not otherwise defined in this Declaration or in the Plat shall have the same meanings specified or used in the Act.

ARTICLE III NAME AND LOCATION OF LOTS

Section 3.1 Name. The name of the project is Colorado's Timber Ridge Subdivision.

Section 3.2 Description. The entire Common Interest Community is situated in the County of Archuleta, State of Colorado, is located on the Property and is a planned community as defined in the Act.

Section 3.3 Association. The name of the association is Colorado's Timber Ridge Homeowners Association.

ARTICLE IV MEMBERSHIP, ALLOCATION OF VOTES, AND ALLOCATION OF LIABILITY FOR COMMON EXPENSES

Section 4.1 Membership in Association. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. An Owner shall not transfer, pledge or alienate his membership in the Association in any way, except upon the sale or encumbrance of his Lot and then only to the purchaser of his Lot.

Section 4.2 Voting. The Association shall have one class of voting membership, which shall consist of all Owners. The Owner, or collective Owners, of a Lot shall be entitled to one equally weighted vote for such Lot. When more than one Person holds an interest in any Lot, all such Persons shall be Members, however, the vote for such Lot shall be exercised as those Owners determine among themselves. The vote allocated to the Lot shall be suspended in the event more than one Person or entity seeks to exercise the right to vote on any one matter.

Section 4.3 Allocation of Liability for Common Expenses.

(a) General Allocations. Except as provided below or elsewhere in the Association Documents, the amount of all Common Expenses shall be assessed equally among all Lots.

(b) Specific Assessments. Notwithstanding the above, the Board of Directors shall have the power to levy specific assessments against Lots pursuant to this Declaration and this Section as, in its discretion, it shall deem appropriate. Specific assessments shall include any Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensees or invitees of any such Lot or Lots.

ARTICLE V LOT DESCRIPTIONS

Section 5.1 Lot Boundaries. Boundaries of each Lot are shown on the Plat, and may hereafter be transferred by using the following legal description:

Lot_____, Colorado's Timber Ridge Subdivision, according to the plat recorded at Reception No. _____ on _____, 2_____, Archuleta County, Colorado.

Section 5.2 Relocation of Lot Boundaries. The boundaries between adjoining Lots may be relocated by an amendment to the Declaration upon application to the Association by the Owners of the Lots affected by the relocation. If the Owners of the adjoining Lots have specified a reallocation between their Lots of their Allocated Interests, the application shall state the proposed reallocation. Unless the Association determines, within 60 days after receipt of the application, that the reallocations are unreasonable, the Association and the appropriate Lot Owners shall prepare and record an amendment that identifies the Lots involved, shows the boundaries as altered, states the reallocations of interests, if applicable, and indicates the Association's consent. The applicants will pay for the costs of preparation of the amendment and its recording, as well as the reasonable consultant fees incurred by the Association if the Association deems it necessary to employ a consultant.

ARTICLE VI MAINTENANCE OF THE COMMON INTEREST COMMUNITY

Section 6.1 Maintenance of Lots. Each Owner shall have the obligation to maintain and keep in good repair all portions of the Owner's Lot consistent with the Community-Wide Standard. This maintenance responsibility shall include, but not be limited to the following:

(a) Improvements. Each Owner shall be responsible for maintenance, repair and replacement of the property and improvements located within their Lot boundaries, including exterior lighting, decks, patios, driveways, sidewalks, doors, garage doors, windows and painting or staining the exterior surfaces of the improvements on the Lot.

(b) Landscaping. Each Owner shall maintain the landscaping on the Lot in a safe, neat, attractive and well-kept condition. Maintenance shall include, at a minimum, regularly mowing lawns, regularly trimming and pruning hedges, shrubs, and trees, providing adequate watering, removing and replacing of dead, diseased or unsightly materials and underbrush, and removing weeds and debris. Landscaping shall not be maintained in any manner which impairs the ability of drivers to have unobstructed views from the street.

(c) Tree Health. The trees within the Common Interest Community are a significant part of the Common Interest Community's natural beauty and are an important asset to the entire Common Interest Community. Healthy trees are vital to the preservation of the character of the Common Interest Community and to the protection and enhancement of property values. Accordingly, each Owner shall be responsible for maintaining and protecting the health of the trees located on his Lot including, but not limited to, inspecting and treating trees for pests and disease and removing trees that are diseased, infested or may otherwise pose a danger to the health of other trees during any time the Board determines, in its sole discretion, that there is a threat. As part of the Community-Wide Standard, the Board of Directors may adopt rules and regulations to implement specific requirements to inspect, maintain and protect tree health, and may institute programs to facilitate inspection and maintenance programs, including, but not limited to, mandatory inspections by Owners or the Association, mandatory treatment of trees to limit or eliminate pests or disease, and mandatory replacement of trees removed pursuant to this provision. The Association shall have the authority, but not the obligation, to perform tree inspections throughout the Common Interest Community. The Association shall further have the authority, but not the obligation, to enter a Lot to inspect, treat, and/or remove an infested, diseased or otherwise dangerous tree if the Owner fails to do so after reasonable notice. Such cost shall be allocated to the Lot as a Specific Assessment.

(d) Culverts. Each Owner shall be responsible for clearing culverts from debris and any build-up of ice.

(e) Utilities. Each Owner shall be responsible for maintenance, repair and replacement of utility or service connections, facilities or other utility equipment and property located in, on, or upon a Lot or serving the Lot. Each Lot Owner shall have a perpetual easement in and to that part of such other Lots containing such property for purposes of maintenance, repair, and inspection.

(f) Each Owner shall have the responsibility to perform his or her responsibilities in such manner so as not to unreasonably disturb other persons in other Lots or to damage other Lots.

(g) The Board of Directors may adopt written Community-Wide Standards related to the maintenance and repair of Lots as set forth in this Section.

Section 6.2 Owner's Failure to Maintain or Repair. In the event that a Lot and the Improvements thereon are not properly maintained and repaired by an Owner, or in the event that the improvements on the Lot are damaged or destroyed by an event of casualty and the Owner does not take reasonable measures to diligently pursue the repair and reconstruction of the damaged or destroyed improvements to substantially repair, replace or reconstruct the same condition in which they existed prior to the damage or destruction, then the Association, after 30 days prior written notice to the Owner and with the approval of the Board of Directors, shall have the right to enter the Lot to perform such work as is reasonably required to restore the Lot and the buildings and other improvements thereon to a condition of good order and repair. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner of the Lot as a Specific Assessment. All unreimbursed costs shall be a lien upon the Lot until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid assessment levied in accordance with Article VIII.

Section 6.3 Maintenance by Association. The Association shall maintain and keep the Common Elements in good repair and the cost of such maintenance shall be funded as provided in Article VIII. This maintenance shall include, but shall not be limited to, upkeep, repair and replacement, subject to any insurance then in effect, of all landscaping, signage, irrigation system, and Improvements, if any, located in the Common Elements. This maintenance also includes maintenance, repair, snowplowing, dust control, weed control, and general maintenance of the roads within the Common Interest Community, unless any such responsibilities are assumed by Archuleta County or another governmental or quasi-governmental entity.

Section 6.4 Maintenance Contract. The Association may employ or contract for the services of an individual or maintenance company to perform certain delegated powers, functions, or duties of the Association to maintain the Common Elements. The employed individual or maintenance company shall have the authority to make expenditures upon prior approval and direction of the Board of Directors. The Board of Directors shall not be liable for any omission or improper exercise by the employed individual or management company of any duty, power, or function so delegated by written instrument executed by or on behalf of the Board of Directors.

Section 6.5 Maintenance Standards and Interpretation. The maintenance standards and the enforcement thereof and the interpretation of maintenance obligations under this Declaration may vary from one term of the Board to another term of the Board. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Article. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board.

ARTICLE VII INSURANCE

Section 7.1 Coverage. To the extent reasonably available, the Association shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Association determines that any insurance described in this Article will not be maintained, the

Association shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners and at their last known addresses. The Association shall obtain and maintain:

(a) **Property Insurance.** Property insurance that will cover the Common Elements and any personal property owned by the Association for broad form covered causes of loss. The property insurance will be for an amount not less than the full insurable replacement cost of the insured property, less applicable deductible, for any improvement installed or made to any Common Element or other property of the Association.

(b) **Liability Insurance.** The Association shall obtain and maintain commercial general liability insurance against claims and liabilities arising in connection with the ownership of the Common Elements in an amount to be determined by the Association, but in no event shall it be less than \$1,000,000. The insurance shall cover all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements and the activities of the Association.

Insurance policies required by this Section shall provide that: (i) the insurer waives the right to subrogation under the policy against an Owner; (ii) an act or omission of an Owner will not void the policy or be a condition of recovery under the policy; (iii) if at the time of loss, there is other insurance in the name of an Owner which covers the same risk, the Association's policy provides primary insurance; (iv) losses must be adjusted with the Association; (v) insurance proceeds shall be paid to the Association, or its designated Trustee, to be held in trust for each Owner; and (vi) the insurer may not cancel or refuse to renew the policy until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the Association.

Section 7.2 **Fidelity Insurance.** A blanket fidelity bond may be provided at the option of the Association to protect against dishonest acts on the part of its officers, directors, trustees, and employees, and on the part of all others who handle or who are responsible for handling the funds belonging to or administered by the Association. In addition, if responsibility for handling funds is delegated to a Manager, such bond shall be obtained for the Manager and its officers, employees, and agents, as applicable. Such fidelity coverage shall name the Association as an obligee and shall be written in an amount equal to at least 150% of the estimated annual operating expenses of the Association, including reserves. Such bonds shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions.

Section 7.3 **Personal Liability Insurance of Officers and Directors.** To the extent obtainable at reasonable cost, appropriate personal liability insurance shall be maintained by the Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and directors on behalf of the Association.

Section 7.4 **Other Insurance.** The Association may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate with respect to the Association's responsibilities and duties.

Section 7.5 **Insurance Obtained by Owners.** Each Owner may obtain physical damage and liability insurance for such Owner's benefit, at such Owner's expense, covering the Owner's Lot and improvements, personal property, and personal liability (except to the extent any such Lot is encumbered by an easement conveyed to the Association as Common Elements). In addition, an Owner may obtain such other and additional insurance coverage on the Lot as such Owner, in the Owner's sole discretion, shall conclude to be desirable; provided, however, that none of such insurance coverage obtained by the Owner shall operate to decrease the amount which the Association, on behalf of all Owners, may realize under any policy maintained by the Board or otherwise affect any insurance coverage obtained by the Association or cause the diminution or termination of that insurance coverage. Any insurance obtained by an Owner shall include a provision waiving the particular insurance company's right of subrogation against the Association and other Owners. No Owner shall obtain separate insurance policies on the

Common Elements. The Association may require an Owner who purchases insurance coverage for the Owner's Lot (other than coverage for the Owner's personal property) to file copies of such policies with the Association within 30 days after purchase of the coverage to eliminate potential conflicts with any master policy carried by the Association.

Section 7.6 General Insurance Provisions. All insurance coverage obtained by the Association shall be governed by the following provisions:

(a) The deductible amount, if any, on any insurance policy purchased by the Association may be treated as a Common Expense payable from Annual Assessments or Special Assessments, or as an item to be paid from working capital reserves established by the Association; or alternatively, the Association may treat the expense as an assessment against an Owner whose Lot is specifically affected by the damage or whose negligence or willful act resulted in damage.

(b) The insurance coverage described in this Article shall be considered minimum coverage and the Association shall be obligated to secure and maintain such other or additional coverage as may be required by law including, without limitation, §313 of the Act.

(c) Except as otherwise provided by the Association pursuant to this Article, insurance premiums shall be a Common Expense to be paid by regular Assessments levied by the Association.

(d) In no event shall the insurance coverage obtained and maintained pursuant to this Article be brought into contribution with insurance purchased by the Owners.

ARTICLE VIII ASSESSMENTS FOR COMMON EXPENSES

Section 8.1 Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed for the Lot, whether or not it shall be so expressed in such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges; (b) special assessments; (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration; (d) default assessments; and (e) insurance assessments.

All such assessments, together with charges, fees, interest, costs, and reasonable attorney's fees actually incurred (including post-judgment attorney fees, costs and expenses) in the maximum amount permitted by law, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts 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 Association shall have authority, but not the obligation, to record a notice of such lien in the Archuleta County, Colorado real property records evidencing the lien created under this Declaration. The lien of the Association under this Article is not subject to the provision of any homestead exemption as allowed under state or federal law. The lien provided for herein shall have the priority as set forth in the Act.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless otherwise provided by Board resolution, the annual assessments shall be paid in advance of the first day of each fiscal year. No Owner may exempt him or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever including, but not limited to, nonuse of the Common Elements, the Association's failure to provide services or perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties.

Section 8.2 Purpose of Assessments. The Assessments shall be used to promote the health, safety, and welfare of the Owners and occupants of the Common Interest Community, for the improvement and maintenance of the Common Elements, and for the fulfillment of the Association's obligations, all as more fully set forth in this Declaration.

Section 8.3 Budget. Within 90 days after the adoption of any proposed budget for the Association, or such longer time as allowed by Act, the Board of Directors shall mail, by ordinary first class mail, or otherwise deliver a summary of the budget to all Owners and shall set a date for a meeting to consider ratification of the budget not less than 10 days or more than 50 days after mailing or other delivery of the summary. Unless at that meeting (which may be held through a mail-in ballot process as provided in the Bylaws) a majority of all Owners reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors.

Section 8.4 Annual Assessments. Annual Assessments for Common Expenses shall be based upon the estimated cash requirements as the Board of Directors shall from time to time determine to be paid by all of the Owners, subject to this Article. Estimated Common Expenses shall include, but shall not be limited to, the cost of maintenance of the Common Elements and Improvements thereon including, but not limited to, road maintenance; expenses of management; taxes and special governmental assessments pertaining to the Common Elements and insurance premiums for insurance coverage as deemed desirable or necessary by the Association; landscaping, care of grounds within the Common Elements; wages; common water and utility charges for the Common Elements; legal and accounting fees; management fees; expenses and liabilities incurred by the Association under or by reason of this Declaration; payment of any default remaining from a previous assessment period; and the creation of a reasonable contingency or other reserve or surplus fund for general, routine maintenance of the Common Elements on a periodic basis, as needed. Annual Assessments shall be payable each year in advance and shall be due on the first day of each year, or such other periods as the Board of Directors may determine. The omission or failure of the Association to fix the Annual Assessments for any assessment period shall not be deemed a waiver, modification, or release of the Owners from their obligation to pay the same.

Section 8.5 Apportionment of Annual Assessments. Each Owner shall be responsible for his share of the Common Expenses in accordance with the Allocated Interests set forth in Article IV, subject to the provisions of this Article.

Section 8.6 Special Assessments. In addition to the Annual Assessment provided for above, the Board of Directors may, at any time and in addition to any other rights it may have, propose a special assessment against all Owners in accordance with the meeting and notice procedures set forth in Section 8.3 above. In order to be effective, any special assessment (except as provided in Article IV, Section 4.3(b) regarding the power to impose specific special assessments) shall become effective unless disapproved at a duly called Association meeting by a vote of a majority of the total Association membership; provided, however, if a quorum is not obtained at such meeting, the special assessment shall become effective even though a vote to disapprove the special assessment could not be called at this meeting.

Section 8.7 Specific Assessments. The Board of Directors shall have the power to specifically assess expenses of the Association against Lots that receive benefits, items or services not provided to all Lots within the Property: (a) that are incurred upon request of the Owner of a Lot for specific items or services relating to the Lot, or (b) that are incurred as a consequence of the conduct of less than all Owners, their licensees, invitees, or guests.

Section 8.8 Default Assessments. All monetary fines assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents, shall be a Default Assessment and shall become a lien against such Owner's Lot which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least 30 days prior to the due date.

Section 8.9 Effect of Nonpayment; Assessment Lien. Any assessment installment, whether pertaining to any Annual, Special, Specific or Default Assessment, which is not paid within 30 days of its due date, shall be delinquent. If an Assessment installment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

(a) assess a late charge for each delinquency in such amount as the Association deems appropriate;

(b) assess an interest charge from the date of delinquency at the yearly rate established by the Executive Board, not to exceed 21% per annum;

(c) suspend the voting rights of the Owner during any period of delinquency;

(d) accelerate all remaining Assessment installments so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;

(e) bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Lot. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefore; and

(f) foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent assessment or related charges, or monthly or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Lot at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, convey or otherwise deal with the same. If a foreclosure action is filed to foreclose any assessment lien, and an Owner abandons or leaves vacant his or her Lot, the Board may take possession and rent said Lot or apply for the appointment of a receiver for the Lot without prior notice to the Owner. The rights of the Association shall be expressly subordinate to the rights of any holder of a first lien security interest as set forth in its deed of trust or mortgage (including any assignment of rents), to the extent permitted under the Act.

The Association shall be entitled to costs and reasonable attorney fees in any action brought by the Association under this Section.

Section 8.10 Successor's Liability for Assessment. In addition to the personal obligation of each Owner to pay all Assessments and the Association's perpetual lien for such Assessments, all successors to the fee simple title of a Lot, except as provided below, shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees against such Lot without prejudice to such successor's right to recover from any prior Owner any amounts paid by such successor. This liability of a successor shall be personal, and shall not terminate upon termination of such successor's fee simple interest in the Lot. In addition such successor shall be entitled to rely on the Statement of Status of Assessment Payment by or on behalf of the Association under this Article.

Section 8.11 Statement of Status of Assessment Payment. The Association shall furnish to an Owner, or such Owner's designee, upon written request, delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Lot. The statement shall be furnished within 14 calendar days after receipt of the request and is binding on the Association, the Board of Directors and every Owner. If no statement is furnished to the Owner or holder of a security interest or their designee, delivered personally or by certified mail, first class postage prepaid, return

receipt requested, to the inquiring party, the Association shall have no right to assert a lien upon the Lot for unpaid assessments which were due as of the date of the request.

Section 8.12 Surplus Funds and Common Profits. Common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall, at the option of the Board of Directors, be: (a) distributed to the Owners; (b) credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Lot; or (c) added to the Association's capital reserve account.

Section 8.13 Borrowing. The Association shall have the power to assign its right to borrow money and assign future income, including the right to assign its right to receive Common Expense assessments.

ARTICLE IX CONDEMNATION

Section 9.1 Rights of Owners. Whenever all or any part of the Common Elements shall be taken by any authority having power of condemnation or eminent domain or whenever all or any part of the Common Elements is conveyed in lieu of a taking under thereof of condemnation by the Board of Directors acting as attorney-in-fact for all Owners under instructions from any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice of the taking or conveying. The Association shall act as attorney-in-fact for all Owners in the proceeding incident to the condemnation proceeding, unless otherwise prohibited by law.

Section 9.2 Partial Condemnation, Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Association as trustee for the Owners, and the award shall be disbursed in equal shares per Lot among the Owners.

Section 9.3 Complete Condemnation. If all of the Common Interest Community is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration shall terminate, and the portion of the condemnation award attributable to the Common Elements shall be distributed as provided in Section 9.2 above.

ARTICLE X DURATION OF COVENANTS AND AMENDMENT

Section 10.1 Term. The covenants, easements, and restrictions of this Declaration shall run with and bind the Property in perpetuity, subject to the termination provisions of the Act.

Section 10.2 Amendment. This Declaration, or any provision of it, may be amended at any time by an instrument signed by Owners holding no less than 67% of the votes. Any Amendment must be executed by the President of the Association and recorded, and approval of such amendment may be shown by attaching a certificate of the Secretary of the Association to the recorded instrument certifying that signatures of a sufficient number of Owners approving the amendment are on file in the office of the Association. The procedure for amendment must follow §217 of the Act.

Section 10.3 Termination. This Declaration shall not be revoked, nor shall the Common Interest Community be terminated, except as provided in Article IX regarding complete condemnation, without the consent of 67% of the Owners evidenced by a written instrument duly recorded. Termination of the Common Interest Community may be accomplished only in accordance with §218 of the Act.

Section 10.4 Limitation of Challenges. An action to challenge the validity of an amendment adopted by the Association pursuant to this Article may not be brought more than one year after the amendment is recorded.

ARTICLE XI USE RESTRICTIONS

Section 11.1 Residential Use. All Lots shall be used for single-family purposes, including associated equestrian facilities, only. Only one single-family residence may be constructed on a Lot. Determination as to whether use is incidental or accessory to single-family residential purposes shall be made by the Association, but under no circumstance shall such incidental or accessory use be construed to permit the carrying on of any trade, business, profession, or employment, except that the Owner residing in the residence may conduct ancillary business activities within the residence so long as:

(a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the Lot;

(b) the business activity is conducted solely by the permanent occupants of the Lot and does not involve visitation of the Lot by employees, clients, customers, suppliers or other business invitees in greater volume than would normally be expected for guest visitation to a residence without business activity;

(c) the business activity is legal and conforms to all zoning requirements for the Common Interest Community;

(d) the business activity does not increase traffic in the Common Interest Community in excess of what would normally be expected for a residential subdivision without business activity (other than by a reasonable number of deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services);

(e) the business activity is consistent with the residential character of the Common Interest Community and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Common Interest Community, as determined in the Board's discretion;

(f) the business activity is conducted solely within the dwelling unit and/or accessory structure; and

(g) no materials or equipment related to the business activity is kept or stored outside of the dwelling.

The terms "business" and "trade," as used herein, shall have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required for the activity.

Notwithstanding any provision to the contrary, child care or day care operations and boarding house or bed and breakfast operations are prohibited.

Section 11.2 Leasing and Occupancy. The Common Interest Community is intended to be an owner-occupied community. However, any Lot Owner shall have the right to lease or allow occupancy of a Lot upon such terms and conditions as the Lot Owner may deem advisable, subject to restrictions of this Declaration, subject to restrictions of record, and subject to the following:

(a) "Leasing" or "Renting" for the purposes of this Declaration is defined as regular, exclusive occupancy of a Lot by any person other than the Owner. For the purposes of this Declaration, occupancy by a roommate of an Owner who occupies the Lot as such Owner's primary residence shall not constitute leasing under this Declaration.

(b) Short term occupancies and rentals (of less than three months) of Lots shall be prohibited, without prior written consent of the Board.

(c) All leases or rental agreements shall be in writing and shall provide that the leases or rental agreements are subject to all terms of the Association Documents. The Association shall have the authority to require a particular lease form or addendum to implement the provisions of this Section. Owners are required to provide tenants with copies of the current Declaration and any rules and regulations of the Association.

(d) Each Owner who leases his or her Lot shall provide the Association, upon request, a copy of the current lease and tenant information, including the names of all occupants, vehicle descriptions, including license plate numbers, and any other information reasonably requested by the Association or its agents.

(e) All occupancies, leases and rental agreements of Lots shall state that the failure of the tenant, lessee, renter or their guests to comply with the terms of the Association Documents shall constitute a default of the occupancy, lease or rental agreement and of this Declaration and such default shall be enforceable by either the Association or the landlord, or by both of them.

(f) All occupancies of Lots shall be subject to the right of the Association to remove and/or evict the occupant for failure to comply with the terms of the Declaration, the Bylaws of the Association, the Articles of Incorporation or the rules and regulations of the Association. If the Association requests that the Owner evict the Owner's tenant based on the terms of this Declaration, and the Owner fails to commence such action within 30 days of the date of the Association's request and notice, the Association may commence eviction proceedings. Upon failure by the Owner to comply with the Association's request to evict, the Owner delegates and assigns to the Association, acting through the Board, the power and authority to evict the lessee as attorney-in-fact on behalf of and for the benefit of the Owner. If the Association evicts the lessee, any costs, including, but not limited to, reasonable attorney fees actually incurred and court costs associated with the eviction shall be an Assessment and lien against the Lot.

(g) Leases shall be for or of the entire Lot.

(h) All Owners who reside at a place other than the Lot shall provide to the Association an address and phone number(s) where the Owner can be reached in the case of emergency or other Association business. It is the sole responsibility of the Owner to keep this information current.

(i) The Association shall have the authority to adopt rules and regulations regarding leasing, including the implementation of this restriction, and for implementation of other restrictions in the Declaration and as allowed by law.

Section 11.3 Improvements Prohibited. Except as provided in Section 14.8, no used or second-hand structure, no building of a temporary character, mobile home, house trailer, tent, shack, or outbuilding shall be placed or used on the Common Interest Community, either temporarily or permanently; except those items which are necessary for construction may be used during the period extending no later than: (a) eighteen months after commencement of construction, or (b) the date of substantial completion of said improvement, whichever is earlier. The placement, appearance, and maintenance of such temporary structures may be subject to reasonable rules of the Association. No permanent structure shall be constructed without prior approval from the Improvement Review Committee

as set forth in Article XII. This Section is not intended to prohibit the use of preassembled or manufactured components, such as roof trusses, precut logs, wall systems or other similar components.

Section 11.4 Trash. No trash, ashes, or other refuse or debris may be allowed to accumulate or be placed on the Common Interest Community. The burning of refuse outdoors shall not be permitted, except with a burning permit issued by the Pagosa Area Fire Protection District. No incinerators or other device for the burning of refuse indoors shall be constructed, installed, or used except as approved by the Board of Directors. Waste materials, garbage, and trash shall be kept in bear-proof, sanitary containers, enclosed and screened from view from the roads, protected from disturbance, and disposed of with reasonable promptness. All containers for the storage of garbage must be secure wildlife resistant containers with lids. Homeowners shall store garbage cans in closed areas such as the garage and only put trash out when it is scheduled to be picked up so as to prevent attracting wildlife, provided that garbage cans may be kept outside, out of view from the roads, from November through April

Section 11.5 Animals and Pets.

(a) The Association may adopt reasonable rules and regulations regarding the keeping of any animals on a Lot and may regulate the number and type of animals allowed on any Lot.

(b) All animals shall be kept to the area constituting the building site, if applicable, and if not, to an area within fifty feet of the residence or attached to a leash or other suitable control device, which in the case of horses may be an electric fence. No animals shall be allowed to run free. The owner of any animal shall at all times be personally liable for all actions of such animals and any damage caused by such animals.

(c) No livestock grazing shall be allowed in the Common Interest Community. Horses, llamas and alpacas shall be allowed on a Lot with supplemental feeding, however, the number of such animals allowed shall be limited to one animal per acre of land comprising the Lot. Mules and/or donkeys may be confined on a Lot with supplemental feeding for not longer than two weeks at a time and not longer than three weeks per year.

(d) Horses, llamas and alpacas will be stalled with a designated exercise area, supplemental feed and water provided on a daily basis, and weekly manure removal. The IRC may grant a variance, upon application, to supplement feeding to include limited grazing upon an on-site evaluation.

(e) No barnyard animals, including cattle, chickens, pigs, goats or rabbits, shall be bred, raised or confined on any Lot. Lot Owners with children participating in a 4H project may apply to the IRC for a variance to this restriction.

(f) Any animal causing or creating a nuisance or unreasonable disturbance or noise may be permanently removed from the Common Interest Community upon three days written notice following Notice and Hearing from the Board of Directors. The Colorado Division of Wildlife shall also be authorized to remove or otherwise dispose of any nuisance wildlife found on the property in accordance with applicable state and local laws. Owner(s) shall hold the Association harmless from any claim resulting from the behavior of their pets.

(g) Each household shall have not more than three dogs and/or three cats.

(h) Domestic pet food must be kept inside the house or garage.

(i) Owners shall immediately clean up animal waste left in the Common Interest Community, provided that the Board may adopt rules and regulations regarding the regular removal of animal waste from a Lot.

Section 11.6 Noxious or Offensive Activity No noxious or offensive activity shall be conducted in any Lot, nor shall anything be done or placed on a Lot or the Common Interest Community that is or

may become a nuisance or cause embarrassment, disturbance, or annoyance to others. The intention of this provision is to grant the Association and aggrieved Owners a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment of the Common Interest Community. In this regard, specific unauthorized and unreasonable annoyances or disturbances shall include, but not be limited to, the following:

(a) any fighting, screaming, shouting, excessively loud talking, whistling, or playing of music or television, raucous behavior or insobriety either outside of a residence on a Lot at any time or within a residence if such conduct can be heard in the normal course of activities in any other residence(s);

(b) the use of any alarm, equipment, or device, mechanical or otherwise, which creates or produces excessively loud sounds either outside of a residence on a Lot at any time or within a residence if such sounds can be heard in the normal course of activities in any other residence(s); provided that alarms for security systems that have automatic turn-offs within a reasonable time shall not be deemed a violation of this Section;

(c) any threatening or intimidating conduct towards any resident, guest or pet in the Common Interest Community;

(d) any conduct which, in the Board's reasonable discretion, creates any danger or risk of injury to others or damage to property in the Common Interest Community or which creates any threat to health or safety of any other resident or pet;

(e) any excessively loud play activities either outside of a residence on a Lot at any time or within a residence if such conduct can be heard in the normal course of activities in any other residence(s);

(f) any conduct which creates any noxious or offensive odor if such odors can be detected in the normal course of activities on another Lot;

(g) any incessant or excessive pet noises, including dog barking, if such conduct can be heard in the normal course of activities in any other residence(s);

(h) any construction or similar activities on a Lot that can be heard in residences on other Lots between the hours of 9:00 p.m. and 7:30 a.m.; or

(i) any similar action or activity outside of a residence on a Lot in the Common Interest Community, or which occurs inside a residence on a Lot but which interferes with the peaceful use and enjoyment of Owners in other residences or on the Common Elements by any other Owner, members of his or her family, guests, invitees, or occupants of his or her Lot.

(j) discharging of firearms for purposes other than self defense in accordance with Colorado law.

Nothing herein shall be construed to affect the rights of an aggrieved Owner to proceed individually against a violator hereof for relief from interference with his or her property or personal rights, and the Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their personal property rights before the Association intervenes and commences enforcement action hereunder. No claim for any loss, damage or otherwise shall exist by an aggrieved Owner against the Association for failure to enforce the provisions hereof if the aggrieved Owner has not personally pursued all available remedies against the violator for redress provided under Colorado law.

No Lot Owner may use or allow the use of the Lot or the Common Elements in any manner which creates noise between the hours of 9:00 p.m. and 7:30 a.m. which can be heard by persons in another residence that will, in the Board's sole discretion, unreasonably interfere with the rights, comfort or

convenience of any other Owner, members of his or her family, guests, invitees, or occupants of his or her Lot.

Section 11.7 Maintenance of Lots and Outside Storage. Every Lot (including the improvements thereon) shall be kept and maintained by the Owner thereof in a clean, safe, and attractive condition and in good repair; and no lumber, grass, shrub or tree clippings, plant waste, metals, building materials, scrap, refuse or trash shall be kept, stored, or allowed to accumulate in or on any Lot.

Section 11.8 Annoying Lights, Sounds, or Odors. No lights shall be emitted from any Lot which are unreasonably bright or cause unreasonable glare; no sound shall be emitted from any Lot which is unreasonably loud or annoying; and no odor shall be emitted from any Lot which is noxious or unreasonably offensive to other Owners.

Section 11.9 Vehicles. Automobiles and pickup trucks shall be parked in driveways or inside garages only. No trailers, motor homes, recreational vehicles ("RVs"), snowmobiles, or boats shall be parked or stored or operated within the Common Interest Community, except inside a garage. RVs more than 24 feet in length may be garaged or stored outside with fencing and/or landscaping screening approved by the IRC. Horse trailers more than 24 feet in length may be garaged or stored outside with fencing and/or landscaping approved by the IRC, provided that if an Equestrian Facility exists, such horse trailers must be housed in a garage on the Lot or at the Equestrian Facility. RVs and horse trailers must be maintained in good, operating condition and appearance, as may be more fully set forth in rules and regulations. Occupied guest RVs may be located outside the garage on the Lot for no longer than 30 days in a single stay or no longer than 45 days annually. No abandoned or inoperable motor vehicles shall be stored or parked anywhere in the Common Interest Community other than inside a garage. "Abandoned or inoperable" shall be defined as incapable of legal operation upon a public roadway or which has not been driven under its own power for a period of 14 days or longer.

Section 11.10 Tree Removal. No tree over five inches in diameter measured at four and one-half feet from the highest ground level at the base of the tree shall be cut down or removed from a Lot without approval from the IRC. Notwithstanding the foregoing, trees may be removed from a Lot for home construction, defensible fire zones, and limited view enhancement, but with written approval from the IRC.

Section 11.11 Weed Control. Every Owner, regardless of whether his Lot is improved, shall take all action necessary to restrict the growth of and to remove noxious weeds and grasses as identified by Archuleta County in accordance with all applicable local state, and federal requirements. The control of noxious weeds using chemical control methods shall be in accordance with U.S. EPA label restrictions and shall be applied by an individual experienced in chemical application and safety requirements.

Section 11.12 Conduct of Occupant. No immoral, improper, offensive or unlawful use may be made of the Common Interest Community. Lot Owners shall comply with and conform to all applicable laws and regulations of the United States and of the State of Colorado and all ordinances, rules and regulations of the County of Archuleta. The violating Lot Owner shall hold the Association and other Lot Owners harmless from all fines, penalties, costs and prosecutions for any violation or noncompliance.

Section 11.13 Mining Prohibited. The mining or quarrying of rocks, stones, gravel or earth is prohibited in the Common Interest Community.

Section 11.14 Signs. No signs shall be permitted on Lots with the exception of the following: residential identification signs displaying appropriate house numbers, as required by Archuleta County and the Pagosa Area Fire Protection District; family name or ranch name signs; one "for sale" sign, with dimensions not exceeding those set forth in any rule adopted by the Association; contractor signs during the period of construction; and political signs as allowed by Colorado law. The Board of Directors may adopt rules and regulations regarding the number, size and placement of any allowed signs.

Section 11.15 No Partition. The Common Elements shall be owned by the Association, and no Owner, group of Owners, or the Association shall bring any action for partition or division of the Common Elements.

Section 11.16 Appearance of Common Elements. Owners shall cooperate in maintaining the Common Elements in a clean, neat, orderly, and attractive manner. Any personal items belonging to an Owner found in the Common Elements may be confiscated by the Association and disposed of without further notice. No landscaping of any portion of the Common Elements shall be permitted without the express consent of the Association.

Section 11.17 Guest Quarters Restrictions. Guest quarters that are above attached garages or otherwise attached to or incorporated into the residence are allowed provided they do not exceed 500 square feet in floor area, exclusive of porches or decks. Guest quarters are to be occupied by legitimate guests (*i.e.*, friends and visiting family) and are not to be rented or leased separately from the Lot as a whole for any period of time.

Section 11.18 Subdivision. No Lot may be further divided or subdivided or combined, nor may any easement or other interest in less than the whole be conveyed by the Owner of the Lot without the prior written approval of the IRC, which may be withheld in the IRC's discretion; provided, however, nothing herein shall be deemed to require approval of the IRC for the transfer or sale of any Lot or for the granting of any security interest in the Lot. In the event the IRC disapproves any request pursuant to this Section, the applicant may appeal to the Board within 30 days of the date of the IRC's decision.

Section 11.19 Burning. Burning is prohibited except with a valid burn permit issued by the governmental agency with jurisdiction and in burners approved by the Board or the IRC as to location, design, materials and construction. Burning is strictly prohibited except at such hours as may be established by the Board consistent with the burn permit and any other rules and regulations established by the Board.

Section 11.20 Antennas and Satellite Dishes. Except as provided below, no satellite dish, antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained on a Lot or any portion of the Common Elements without the approval of the IRC; provided, however, that the Association shall have the right to erect, construct and maintain such devices. The following shall apply to all Lot Owners:

(a) No transmission antenna, of any kind, may be erected anywhere on a Lot, without written approval of the IRC.

(b) No direct broadcast satellite ("DBS") antenna or multi-channel multi-point distribution service ("MMDS") antenna larger than one meter in diameter shall be placed, allowed or maintained upon a Lot.

(c) DBS and MMDS satellite dishes or antennas one meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission ("FCC") rules, the rules and regulations and the Guidelines of the Association, as may be amended from time to time.

If a Lot is transferred which includes a satellite dish or antenna, the grantee shall assume all responsibility for the satellite dish or antenna and shall comply with this Declaration, the Bylaws, the rules and regulations and Guidelines regarding satellite dishes and antennas.

Section 11.21 Rules and Regulations. The Board of Directors may adopt, amend and repeal rules and regulations concerning and governing the Common Interest Community in furtherance of the provisions of this Declaration and the general plan of development. The Board of Directors may also establish and enforce penalties for infractions of the rules, including, but not limited to fines.

ARTICLE XII EASEMENTS AND LICENSES

Section 12.1 Existing Easements. The Common Interest Community shall be subject to all easements shown on the Plat, those of record, those provided for in the Act, and as otherwise set forth in this Article.

Section 12.2 Owner's Easement Across Common Elements. Every Lot Owner Occupant shall have a right and non-exclusive easement of ingress and egress, use and enjoyment in and to the Common Elements which shall be appurtenant to and shall pass with the title to his or her Lot, subject to the following provisions:

(a) the right of the Association to borrow money as set forth in this Declaration. Any provision in this Declaration or in any security interest given by the Association to the contrary notwithstanding, the exercise of any rights therein by the holder of the security interest in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of any Lot or Owner encumbering any Lot, irrespective of when executed, or the holder of any mortgage;

(b) the right of the Association to grant easements, leases and licenses across the Common Elements;

(c) the right of the Association to dedicate or transfer all or any portion of the Common Elements in accordance with the Act;

(d) the right of the Association to change the use of portions of the Common Elements or to close portions of the Common Elements, provided that permanent closure of any portion of the Common Elements must be approved by 67% of the Owners voting in person or by proxy at a meeting duly called for such purpose;

(e) the right of the Association to suspend the voting and/or use rights of an Owner for any period during which any assessment or charge against his or her Lot which is provided for herein remains unpaid and, following notice and an opportunity for a hearing, for a reasonable period of time for an infraction of the Declaration, Bylaws, or rules and regulations;

(f) the right of the Association to adopt rules and regulations concerning the use of the Common Elements, including rules limiting the number of guests who may use the Common Elements;

(g) any restrictions or limitations contained in any instrument conveying such property to the Association or granting the Association possessory or use rights therein;

(h) the right of the Association to impose reasonable membership requirements and charge reasonable membership, admission, use or other fees for the use of any facility situated upon the Common Elements; and

(i) the right of the Association to restrict, regulate or limit Owners' use of the Common Elements for environmental preservation purposes, including without limitation, wildlife corridors, winter wildlife ranges and natural wildlife habitat.

Any Lot Owner may delegate his or her right of use and enjoyment in and to the Common Elements to the members of his or her family, his or her tenants and guests, and shall be deemed to have made a delegation of all such rights to the occupants of his or her Lot, if leased.

Section 12.3 Easement for Entry. The Association shall have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance upon any Lot if an Owner fails to do the same as provided in this Declaration, and to inspect for the purpose of ensuring

compliance with this Declaration, Bylaws, and the rules and regulations, which right may be exercised by any member of the Board, its officers, agents, employees, and managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board, but shall not authorize entry into any single family detached dwelling without permission of the Owner except by emergency personnel acting in their official capacities.

ARTICLE XIII ARCHITECTURAL REVIEW

Section 13.1 Improvement Review Committee. There is hereby established an Improvement Review Committee ("IRC"), which shall be responsible for the administration of Architectural and Design Guidelines ("Guidelines") to carry out the purposes and intent of this Declaration. The IRC will be composed of not less than three persons nor more than five persons appointed by the Board of Directors. The IRC need not include any Member of the Association. Members of the IRC appointed by the Board may be removed at any time by the Board and shall serve for such term as may be designated by the Board or until resignation or removal by the Board.

Section 13.2 General Authority of Improvement Review Committee. The IRC will review, study and either approve or reject proposed improvements on the Property, in compliance with this Declaration and as further set forth in the Guidelines, as they may be amended from time to time. No improvement will be erected, placed, reconstructed, replaced, repaired or otherwise altered, nor will any construction, repair or reconstruction be commenced until plans for the improvements shall have been approved by the IRC. Improvements that are completely within a dwelling structure may be undertaken without such approval.

Section 13.3 Submittal. In addition to any requirement of submitting improvement plans and specifications for approval to the appropriate division of the Archuleta County government, the Owner of each Lot shall submit the plans and specifications for the construction, alteration, or addition of improvements thereon to the IRC, whose prior consent shall be required before any such improvements are commenced.

Section 13.4 Design Review Criteria. The IRC shall exercise its reasonable judgment to the end that proposed improvements, construction, alterations or landscaping conform to and harmonize with the existing surroundings, residences, landscaping, topography, finish grade elevation, and structures. The approval or consent of the IRC on matters properly coming before it shall not be unreasonably withheld, and actions taken shall not be arbitrary or capricious. The standard for approval shall include, but not be limited to: (a) conformity and harmony of exterior appearances of structures with neighboring structures, including design compatibility and scale; (b) color and materials to be used; (c) effective location and impact on nearby Lots; (d) relation to the natural environment; (e) preservation of aesthetic beauty and conformity with the specifications and purposes generally set out in this Declaration and in the Guidelines; (f) quality of workmanship and design; and (g) any other matter deemed to be relevant or appropriate by the IRC.

Section 13.5 Guidelines.

(a) Mandatory Provisions. The Guidelines shall include, among other things, the following provisions:

(i) Setback. All Improvements, other than perimeter fencing, constructed on a Lot shall be set back from all Lot boundary lines for the distance reflected on the recorded Plat. If the

recorded Plat does not contain a setback for the Lot, the setback shall be 50 feet from all Lot boundary lines.

(ii) Uniform Building Code. All improvements shall meet all of the requirements of the Uniform Building Code, including fire protection standards, and any other building code or fire code of Archuleta County, Colorado, then in effect.

(iii) Dwelling Size. The minimum residential floor area (exclusive of porch, garage, covered decks, cabanas or similar structures) of all single-family residences shall be 2,000 square feet when attached to a two-car garage; and single-family residences with detached garages shall have a minimum residential floor area of 2,600 square feet.

(iv) Height. The maximum height of any structural improvement shall be 35 feet. The height of such improvement shall be measured and determined in accordance with the Uniform Building Code.

(v) Engineered Foundations. All single-family residences shall have foundations designed by a licensed Colorado engineer. No Owner shall perform or allow excessive lawn or garden watering on a Lot which might adversely effect the slope stabilization on a Lot and cause foundation damage.

(vi) Roofs. All roofs shall be constructed of noncombustible material and shall have a color finish approved by the IRC.

(v) Garages and Parking. Each Lot shall include at least two parking spaces and a two-car garage (attached or detached).

(vi) Exterior Building Material and Style. Geo-dome, A-frame, and similar styles shall not be allowed for any residence. All residences shall be built in an exterior style and with colors and materials compatible to the area, color and materials to buildings in existence in the surrounding areas. No exterior walls shall consist of metal, sheet metal, or any similar material, composition shingles or unplastered cement or similar type block, fiberglass or vinyl siding. All exterior colors of walls and roofs will be natural or earth tones to blend with the natural surroundings except that colored trim may be allowed with IRC approval. Any outbuilding (such as a greenhouse, bathhouse, shed or other such outbuilding) must have the prior approval of the IRC before being constructed or located upon on a Lot, provided that the Board of Directors may determine that outbuildings within certain specified dimension does not require approval.

(vii) Utilities and Propane Tanks. All service and utility areas, including propane tanks, shall be screened from view from the roads and neighboring Lots with fencing or landscaping. Propane tanks, engineered to be installed below ground, are allowed. All electric, gas (when available), water, telephone, sewer or other utility lines shall be placed underground when extended from the property line to any dwelling or other improvement on the Lot. All Lots shall connect to central water and sewer services. All individual water and sewer connections shall be constructed, installed, and maintained in compliance with all applicable rules and regulations of any governmental or quasi-governmental entity having jurisdiction over the Lot, including but not limited to, the Pagosa Area Water and Sanitation District, the County of Archuleta, San Juan Basin Health District, and the State of Colorado.

(viii) Defensible Fire Zone. Each Owner shall protect his Lot and Improvements and the Common Interest Community by creating at least a thirty foot safety zone around all buildings. Within this zone, each Owner shall: thin out continuous tree and brush cover and dispose of debris; remove dead tree limbs; trim branches to a height of ten feet; trim branches that extend over the eaves of the roof; plan for an exterior water source that can reach around the building; and stack firewood away from buildings. On Lots with slopes exceeding 10%, the safety zone shall be increased to 60 feet

around all buildings. On Lots with slopes exceeding 15% and continuous tree cover, lesser quality trees shall be thinned to provide eight to ten feet between outer tips of tree branches.

(ix) Fences. All fences, including the location and style of fence, must be approved by the IRC. A maximum of 75% of a Lot perimeter may be enclosed by fencing. Fences along the rear or back Lot lines must be 10 feet inside the Lot line to accommodate equestrian paths. (This also applies to proposed fences along side Lot lines that are contiguous to equestrian trails or firebreaks as shown on the plat map, 10 feet inside the Lot line. Boundary fences shall not exceed 42 inches in height. This design conforms to the Division of Wildlife guidelines allowing deer and elk to cross with a minimum of difficulty. Fences shall be constructed of wood, fiberglass, smooth wire, or plastic. No chain-link or barbed wire fencing material will be allowed with the exception of chain-link dog runs.

(x) Woodburning Devices. All solid fuel or woodburning stoves and devices, including fire places, shall comply with the rules and regulations implemented and in effect by any federal, state, or local governmental entity.

(xi) Continuity of Construction. All construction, reconstruction, alterations, or improvements to a Lot shall proceed diligently to completion and shall be completed within eighteen months of the commencement thereof, unless an exception is granted by the IRC. No building or Improvement shall be occupied until it has been substantially completed in accordance with approved plans and specifications and an occupancy permit has been issued by the Archuleta County.

(xii) Drainage. No owner shall do or permit any work, construct any Improvements, or do any landscaping that shall alter or interfere with the natural drainage leaving his Lot. Building construction, including driveways, shall avoid the bottom of natural drainages. All work shall conform to the drainage plan submitted with the building application to the IRC and as authorized for any surface water discharge easement. Any alteration, improvement, or interference with any watercourse, ditch or drainage shall be designed by a licensed Colorado engineer or architect and shall comply with applicable federal, state, and local regulations.

(xiii) Excavation. No excavation shall be made on any Lot except in connection with a building or other Improvement approved by the IRC.

(xiv) Re-Seeding. Following construction in all areas, including sloping terrain, bare soil shall be re-seeded by the Owner to prevent erosion and dust. Re-seeding should be with grasses, shrubs and wildflowers native to the area.

(xv) Wetlands. Areas identified as wetlands on the Plat shall be protected from intrusion before, during and following construction activities. Impacts to wetlands by driveways or buildings are prohibited unless the Owner applies for and receives a permit from the U.S. Army Corp of Engineers. To prevent unplanned fill material from entering wetlands, control techniques such as sediment fencing, hay bales, berms, and re-vegetations are required.

(xvi) Xeriscaping. Xeriscaping may be permitted with the approval of the IRC.

(b) Permissive Provisions. The Guidelines may include, among other things, at the sole discretion of the Board of Directors, the restrictions and limitations set forth below:

(i) Procedures and necessary fees for making application to the IRC for design review approval, including the documents to be submitted and the time limits in which the IRC must act to approve or disapprove any submission;

(ii) Time limitations for the completion of the improvements for which approval is required;

(iii) Designation of the building site on a Lot, including the location of a proposed building in relation to existing buildings on neighboring Lots, and the maximum developable area of the Lot;

(iv) Maximum square foot areas of living space that may be developed on any Lot;

(v) Reasonable screening requirements for solar panels and other renewable energy generation devices, as defined in the Act;

(vi) Landscaping regulations, with limitations and restrictions prohibiting the removal or requiring the replacement of existing trees, the type and use of plants, and other practices benefiting the protection of the environment, conservation of water, aesthetics and architectural harmony of the Common Interest Community;

(vii) General instructions for the construction, reconstruction, refinishing or alteration of any improvement, including any plan to excavate, fill or make any other temporary or permanent change in the natural or existing surface contour or drainage or any installation or utility lines or conduits on the Property, addressing matters such as loading areas, waste storage, trash removal, equipment and materials storage, grading, transformers and meters.

The IRC may propose Architectural and Design Guidelines from time to time, which guidelines shall be subject to approval by the Board of Directors and which, if approved, shall become part of the rules and regulations and the Association Documents. Such Guidelines shall govern the development, improvement, and alteration of the Lot.

Section 13.6 Expenses. Except as provided in this Section below, all expenses of the IRC will be paid by the Association and will constitute a Common Expense. The IRC will have the right to charge a fee for each application submitted to it for review, in an amount that may be established by the IRC from time to time, and such fees will be collected by the IRC and remitted to the Association to help defray the expenses of the IRC operation. Further, the IRC may retain the services of a third party consultant to assist the IRC in reviewing a particular application. In such event, the IRC may charge the applicant for the professional fees incurred in retaining such consultant.

Section 13.7 Variances. The Board of Directors, upon the recommendation of the IRC, may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration in order to overcome practical difficulties and unnecessary hardships with respect to topography, natural obstructions, or aesthetic or environmental consideration arising by reason of the strict application of the conditions and restrictions contained in the Declaration or in the Guidelines. Such variances may only be granted, however, when unique circumstances dictate and all variances shall be in writing. For purposes of this paragraph, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

Section 13.8 Limitation of Liability. The IRC will use reasonable judgment in approving or disapproving plans and specifications submitted to it. Neither the IRC nor any individual IRC member will be liable to any person for any official act of the IRC in connection with submitted plans and specifications, except to the extent the IRC or any individual IRC member acted with malice or wrongful intent. Approval by the IRC does not necessarily assure approval by the appropriate governmental authority. Notwithstanding that the IRC has approved plans and specifications, neither the IRC nor any of its members will be responsible or liable to any Owner, developer or contractor with respect to any loss, liability, improvements. Neither the Board of Directors, the IRC, nor any agent, employee, or consultant will be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Association Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the IRC will be defended and indemnified by the Association in any such suit or proceeding which may arise by reason of

the IRC's decisions. The Association, however, will not be obligated to indemnify each member of the IRC to the extent that any such member of the IRC is adjudged to be liable for malice or wrongful intent in the performance of his duty as a member of the IRC, unless and then only to the extent that the court in which such action or suit may be brought determines upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expense as such court shall deem proper.

Section 13.9 Enforcement. Any member or authorized consultant of the IRC, or any authorized officer, Director, employee or agent of the Association may enter upon any Lot at any reasonable time after notice to the Owner, without being deemed guilty of trespass, in order to inspect improvements constructed or under construction on the Lot to determine whether the improvements have been or are being built in compliance with the Association Documents and the plans and specifications approved by the IRC.

Every violation of these covenants is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed for such violation by law or equity against a Member will be applicable. Without limiting the generality of the foregoing, these covenants may be enforced as provided below:

(a) The IRC may recommend a schedule of fines for failure to abide by the IRC rules and the Guidelines, including fines for failure to obtain any required approval from the IRC.

(b) The Association, upon request of the IRC and after reasonable notice to the offender and, if different, to the Owner, may enter upon any Lot at any reasonable time after notice to the Owner, without being deemed guilty of trespass, and remove any improvement constructed, reconstructed, refinished, altered or maintained in violation of these covenants. The Owner of the improvement will immediately reimburse the Association for all expenses incurred in connection with such removal. If the Owner fails to reimburse the Association within thirty days after the Association gives the Owner notice of the expenses, the sum owed to the Association will bear interest at the default rate from the date of the advance by the Association through the date of reimbursement in full, and all such sums and interest will be a Default Assessment enforceable as provided in this Declaration.

(c) All improvements commenced on the Property will be prosecuted diligently to completion and will be completed within 18 months after commencement, unless an exception is granted in writing by the IRC. If an improvement is commenced and construction is then abandoned for more than ninety days, or if construction is not completed within the required 18 month period, then after notice and opportunity for hearing as provided in the Bylaws, the Association may impose a fine per day of such reasonable amount as the Association may set to be charged against the Owner of the Lot until construction is resumed, or the improvement is completed, as applicable, unless the Owner can prove to the satisfaction of the Executive Board that such abandonment is for circumstances beyond the Owner's control. Such charges will be a Default Assessment and lien as provided in this Declaration.

Section 14.10 Right to Appeal. An Owner may appeal any decision of the IRC to the Board of Directors by written appeal submitted to the Board within 30 days of the date that the IRC decision or notice is mailed to the Owner. The Board of Directors shall review the decision of the IRC and all materials submitted to the IRC pursuant to the criteria set forth in this Article and the Guidelines. Any decision of the IRC may be overruled and reversed by a majority of the directors by a written decision setting forth the reasons for the reversal when the Board concludes that the IRC's decision was inconsistent with the criteria set forth in this Article and the Guidelines. If the Board fails to make a decision on the appeal within 60 days of the date submitted by the Owner, then appeal shall be deemed approved. If an appeal is not timely requested, the actions of the IRC in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it or with respect to any other matter before it, will be conclusive and binding on all interested parties.

**ARTICLE XV
GENERAL PROVISIONS**

Section 15.1 Enforcement. The Association may enforce all applicable provisions of the Association Documents and may impose sanctions for violations of the Association Documents, including, without limitation:

- (a) after notice and opportunity for a hearing, imposing reasonable monetary fines, which shall constitute a lien on the violator's Lot;
- (b) suspending the right to vote and/or the right to use Common Elements;
- (c) exercising self-help (including, but not limited to, performing such maintenance responsibilities that are the Owner's responsibility and assessing costs incurred by the Association against the Lot as an assessments in accordance with the notice requirements of this Declaration) or taking other action to abate any violation of the Association Documents; provided that the Association shall not have authority to enter the interior of a residence on a Lot;
- (d) requiring an Owner, at the Owner's expense, to remove any structure or improvement on the Owner's Lot in violation of the Association Documents;
- (e) levying specific assessments to cover costs incurred by the Association as permitted under this Declaration;
- (f) instituting alternative dispute resolution efforts, including mediation and arbitration, to enforce any violation of the Association Documents, including the use restrictions, design review requirements, and/or design guidelines;
- (g) bringing a suit at law or in equity to enjoin any violation or to recover monetary damages or both; and
- (h) recording a notice of noncompliance against the Lot in the Archuleta County records for any violation of the Association Documents.

All remedies set forth in the Association Documents are cumulative. The Board shall have the discretion to determine whether enforcement action in any particular case shall be pursued; provided that the Board shall exercise judgment, be reasonable and not be arbitrary and capricious. A decision of the Association not to pursue enforcement action shall not be construed as a waiver of the Association's right to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other provision of the Association Documents. All reasonable attorney's fees and costs incurred by the Association to enforce the terms hereof shall, if the Association prevails in such action, be recoverable from the losing party.

Nothing in this paragraph shall preclude an Owner from taking action, at law or in equity, to enforce the terms of the Association Documents.

Section 15.2 Failure to Enforce. Notwithstanding the above, no right of action shall exist against the Association for failure of enforcement where: (a) the Board determines that the Association's position is not strong enough to justify taking enforcement action; (b) a particular violation is not of such a material nature as to be objectionable to a reasonable person or justify the expense and resources to pursue; or (c) the Owner or party asserting a failure of enforcement possesses an independent right to bring an enforcement action at law or in equity and has failed to do so.

Section 15.3 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Witness my hand and official seal.

Notary Public

Print Name: _____

My Commission Expires: _____

EXHIBIT A
TO THE DECLARATIONS OF COLORADO'S TIMBER RIDGE SUBDIVISION
(Legal Description of the Property)

a/k/a and f/k/a The Gomez Ranch

A tract of land located in the Southeast Quarter (SE4) of Section 21; the West Half of the Southwest Quarter (W2SW4) of Section 22; the Southwest Quarter of the Northeast Quarter (SW4NE4) and the Northwest Quarter (NW4) and the North Half of the Southwest Quarter (N2SW4) and the Southwest Quarter of the Southwest Quarter (SW4SW4) and the Northwest Quarter of the Southeast Quarter (NW4SE4) of Section 27; the East Half (E2) and then the Northwest Quarter (NW4), less tracts sold, and the North Half of the Southwest Quarter (N2SW4) and the Southeast Quarter of the Southwest Quarter (SE4SW4) of Section 28, Township 35 North, Range 2 West, New Mexico Principal Meridian, Archuleta County, Colorado totaling 1,178 acres, more or less.