



**AMENDED AND RESTATED
DECLARATION
OF
COVENANTS, CONDITIONS
AND
RESTRICTIONS
FOR
ELK TRAIL**

August 16, 2007

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Elk Trail (the "Amended Declaration") is executed and recorded by Arkansas Valley Company, L.L.C., the Declarant of the Elk Trail subdivision and the owner of 100% of the real property generally known as the Elk Trail subdivision. This Amended Declaration shall completely replace and supersede the Declaration of Covenants, Conditions and Restrictions for Elk Trail recorded on June 20, 2007 at Reception No. 346500 of the records of the Lake County Clerk and Recorder (the "Original Declaration"). This Amended Declaration is executed to correct certain errors contained in the Original Declaration.



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Arkansas Valley Company, L.L.C., a Colorado limited liability company, with a mailing address of Box 909, Leadville, Colorado, 80461 ("Declarant") hereby declares that the property described in Exhibit "A" shall be held and conveyed subject to the following terms, covenants, restrictions and conditions, which shall run with the above described property and be binding on all parties having any right, title, or interest therein or any part thereof, their heirs, personal representatives, successors, and assigns, and shall inure to the benefit of each owner thereof.

The Elk Trail Concept

It is the intent of Declarant to develop a quiet, peaceful, open, wildlife-friendly, aesthetically pleasing, rural neighborhood in a relatively natural forested environment, with most dwellings spaced relatively closely in one direction to foster a feeling of community, but open enough in the perpendicular direction to provide abundant forested open space and distant views. Lots are divided into Building Envelopes, in which structures may be built, and Open Space areas, which are restricted from most forms of development by Lot Owners. Further details may be found in this Declaration, in the Articles of Incorporation and Bylaws for the Elk Trail Owners Association, and in the Design Guidelines and Rules of the Association.

It is important that prospective homeowners carefully read this Declaration and associated Documents to determine whether the Elk Trail concept is harmonious with their personal feelings about what is important in a rural residential community, and that they are completely comfortable with the restrictions and obligations entailed in living here as members of this community.

ARTICLE I
DEFINITIONS

Section 1.1. Agencies: The Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD), the Department of Veterans Affairs (VA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by any of such entities.

Section 1.2. Allocated Interests: The Common Expense liability and votes in the Association, allocated to Lots in the Common Interest Community as provided herein. The Common Expense liability for each Lot shall be a fraction, the numerator of which is one and the denominator of which is the total number of Lots then in the Common Interest Community.

Section 1.3. Architectural Review Committee: The committee appointed by the Declarant during the Period of Declarant Control as defined in Section 4.4 or by the Association thereafter to review and approve or disapprove plans for Improvements submitted by any Owner, as more fully provided in Article VIII of this Declaration.

Section 1.4. Articles of Incorporation: The Articles of Incorporation of the Association, as they may be amended from time to time.

Section 1.5 Association: The Elk Trail Owners' Association, Inc., a nonprofit corporation.

Section 1.6. Board of Directors or Board: The Board of Directors of the Association duly elected pursuant to the Bylaws of the Association or appointed by the Declarant.

Section 1.7. Building Envelope. That area shown on each Lot upon which Improvements may be constructed.

Section 1.8. Bylaws: The Bylaws of the Association, as they may be amended from time to time.

Section 1.9. Common Elements: Any Property within the Common Interest Community owned by the Association. The Common Elements initially owned by the Association upon execution of this Declaration by Declarant are described as Tracts A, B, and C on the Plat.

Section 1.10. Common Expenses : The expenses or financial liabilities for the operation of the Common Interest Community. These expenses include:

- A. Expenses of administration, maintenance, repair or replacement of any Common Elements or property owned or maintained (under an easement, license or contract) by the Association;
- B. Expenses declared to be Common Expenses by the Documents or by the Act;
- C. Expenses agreed upon as Common Expenses by the Board;
- D. Such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held or maintained (under an easement, license or contract) by the Association; and
- E. The costs and expenses imposed on the Association, benefiting fewer than all the Lots, shall be a Common Expense, when assessed exclusively against those Lots benefited.

Section 1.11. Common Expense Assessments: The funds required to be paid by each Owner in payment of a Common Expense liability, including Annual Common Expense Assessments, Special Assessments, and Common Expenses attributable to fewer than all Lots.

Section 1.12. Common Interest Community: The real property subject to this Declaration.

Section 1.13. Declarant: Arkansas Valley Company, L.L.C., a Colorado limited liability company or its successors or assigns.

Section 1.14. Declaration: This document, including any amendments and plats.

Section 1.15. Dedicated Open Space: Open Space designated on the Plat that has been dedicated through the subdivision process to remain as Open Space in perpetuity. Both the Association and the County have an interest and the authority to enforce the Dedicated Open Space provisions as outlined in this Declaration. The Association may have further enforcement rights, as outlined in its Rules and in its Design Guidelines. Silvicultural maintenance may be performed by the Association and/or by the Owner subject to Association standards and prior written Association approval.

Section 1.16. Design Guidelines: Those guidelines adopted by the Board of Directors for the purpose of providing guidance to the Architectural Review Committee in carrying out its responsibilities.

Section 1.17. Director: A member of the Board of Directors.

Section 1.18. Documents: The Declaration and Plat, the Articles of Incorporation, the Bylaws, the Design Guidelines, and the Rules as they be amended from time to time.

Section 1.19. Dwelling Unit: A residence constructed on one Lot within the Common Interest Community and any replacement thereof, including the patio, deck, basement and garage, if applicable. Dwelling Unit shall include the Lot upon which such Dwelling Unit is constructed.

Section 1.20. Eligible Mortgagee: The holder of a first Security Interest in a Lot, when the holder has notified the Association, in writing, of its name and address and that it holds a first Security Interest in a Lot. The notice must include the address of the Lot on which it has a Security Interest. This notice shall include a request that the Eligible Mortgagee be given the notices and other rights described in Article XIV.

Section 1.21. First Security Interest: A Security Interest (as hereinafter defined) that has priority of record over all other recorded liens except those liens made superior by statute (such as general ad valorem tax liens and special assessments).

Section 1.22. Guest: (a) Any person who resides with an Owner within the Common Interest Community; (b) a guest or invitee of an Owner; or (c) an occupant or tenant of a Dwelling Unit within the Common Interest Community, and any member of his or her household, invitee or cohabitant of any such person.

Section 1.23. Improvements: Any improvement to be constructed, installed, erected, expanded, modified, demolished, or altered on any Lot including but not limited to: (a) any building, outbuilding, garage, carport, stairway, walk, deck, porch, driveway, patio, patio cover, awning, solar collector or panel, fence, screening wall, retaining wall, exterior light fixture, post, pole, flagpole, recreational or sporting equipment, trampoline, sign, satellite dish, antenna, tank, heat exchanger or other exterior mechanical equipment, water softening equipment, structure, fixture, or other improvements, including water, septic, and utility facilities; (b) the grading, excavation, filling, paving, bricking, cobbling, or similar disturbance to the surface of the Lot including, without limitation, change of grade, ground level, and drainage pattern; (c) landscaping, planting, pruning, clearing or removing of trees, shrubs, grass or perennial plants; and (d) any application, change, alteration, modification, expansion, or addition of exterior paint, siding, screening, masonry, blocks, bricks, stones, or other finish, including any change of exterior appearance, finish material, color or texture.

Section 1.24. Lot: Each platted lot which is a physical portion of the Common Interest Community, other than Common Elements, designated for separate ownership or occupancy, the boundaries of which are described on the Plat.

Section 1.25. Majority of Owners: The owners of more than fifty percent (50%) of the votes in the Association.

Section 1.26. Manager: A person, firm, corporation or other business entity employed or engaged to perform management services for the Common Interest Community and the Association.

Section 1.27. Member: Each Owner, as set forth in Sections 1.30 and 4.1 below.

Section 1.28. Non-dedicated Open Space: Open Space that has not been dedicated to remain as Open Space in perpetuity, and whose Open Space restrictions are governed only by the Association. Non-designated Open Space includes all areas of the individual Lots that are not specifically designated as either Building Envelope or Dedicated Open Space. It is the intention of Declarant that Non-dedicated Open Space shall remain as Open Space in perpetuity, but minor modifications of the Rules and Design Guidelines for Non-dedicated Open Space may be effected as deemed necessary or desirable by the Association pursuant to its Bylaws. Non-dedicated Open Space is maintained by the Owner in strict accordance with Design Guidelines and Rules, and access by others is controlled by the Owner, subject to any recorded easements.

Section 1.29. Notice and Hearing: The right of an Owner to receive notice of an action proposed to be taken by or on behalf of the Association, and the right to be heard thereon, as provided for herein, or in the Bylaws or in any Rules, regulations or guidelines.



Section 1.30. Open Space: Those areas shown as open space throughout the Common Interest Community on the Plat. Open Space includes those areas of the Common Elements designated as open space, Dedicated Open Space, and Non-dedicated Open Space. Open Space upon each Lot is private property, with access controlled by the Owner subject to the Covenants and Rules of the Association and recorded easements. Sharing of access to Open Space on each Lot with other Owners is encouraged by the Association, but is not required and may be limited by each individual Owner, including the Declarant.

Section 1.31. Owner: The Declarant, Builder or other Person who is the owner of record of the fee simple title to any Lot, but not a Person having an interest in a Lot solely as security for an obligation. The Declarant is the initial owner of any Lot created by this Declaration.

Section 1.32. Period of Declarant Control: That period of time defined in Section 4.4 below.

Section 1.33. Person: A natural person, corporation, trust, partnership, association, joint venture, government subdivision or agency or other legal or commercial entity or combination thereof.

Section 1.34. Plat: The plat for Elk Trail Subdivision filed in the office of the Lake County Clerk and Recorder, Lake County, Colorado, on June 18, 2007, at Reception No. 346460 as it may be amended from time to time.

Section 1.35. Property: The land and all Dwelling Units and Improvements that are subject to this Declaration.

Section 1.36. Rules: Rules and regulations adopted and amended from time-to-time by the Board of Directors pursuant to this Declaration for the regulation of the Common Interest Community.

Section 1.37. Security Interest: An interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an Association, and any other consensual lien or title retention contract intended as security for an obligation. For purposes of Section 7.3 hereof and, with respect to notice of cancellation or substantial modification of certain insurance policies, to Section 10.12 hereof, "Security Interest" shall also mean and refer to any executory land sales contract wherein the Administrator of Veterans Affairs, an Officer of the United States of America, is the seller, whether such contract is recorded or not, and whether such contract is owned by the said Administrator or has been assigned by the Administrator and is owned by the Administrator's assignee, or a remote assignee, and the land records in the Office of the Clerk and Recorder of Lake County, Colorado, show the Administrator as having the record title to the Lot.

Section 1.38. Special Assessments: Those Common Expenses Assessments defined in Subsection D of Section 7.1 below.

Section 1.39. Special Declarant Rights: Rights reserved for the benefit of a Declarant to (1) complete Improvements indicated on the Plat; (2) maintain sales offices, management offices, signs advertising the Common Interest Community, and models; (3) use easements through the Common Elements for the purpose of making improvements within the Common Interest Community or within real estate that may be added to the Common Interest Community; (4) appoint or remove an officer of the Association or any Board of Director member during any Period of Declarant Control; (5) appoint or remove any Architectural Review Committee member as set forth in Section 8.3; or (6) any other rights authorized by this Declaration or Colorado law.

ARTICLE II

SCOPE OF THE COMMON INTEREST COMMUNITY AND ASSOCIATION

Section 2.1. The Common Interest Community: The name of the Common Interest Community is Elk Trail

Section 2.2. The Association: The name of the Association is Elk Trail Owners Association, Inc.

Section 2.3. Number of Lots: The Common Interest Community contains 15 Lots.



Section 2.4. Identification of Lots : The identification number of each Lot is shown on the Plat.

Section 2.5. Lot Boundaries : The boundaries of each Lot are located as shown on the Plat.

ARTICLE III
THE COMMON ELEMENTS

Section 3.1. Title to the Common Elements : The Declarant hereby covenants that it will convey to the Association fee simple title to the Common Elements prior to the conveyance of the first Lot within the Common Interest Community to an Owner other than Declarant.

Section 3.2. Duty to Accept the Common Elements Transferred by Declarant : The Association shall accept title to the Common Elements deeded by Declarant and agrees to own and maintain any property, including all Improvements located thereon, and personal property relating thereto, transferred to the Association by Declarant as Common Elements. Any property or interest in property transferred to the Association by Declarant shall be transferred to the Association free and clear of all liens and encumbrances (other than the lien of real estate taxes not then due and payable).

Section 3.3. Owners' Easements : Every Owner shall have a nonexclusive right and easement for use for various purposes, in and to the Common Elements, subject to Rules of the Association therefor, and such easement shall be appurtenant to and shall pass with the title to every Lot. Any Owner may delegate their right of enjoyment to the Common Elements and facilities to the members of their family, their Guests, or contract purchasers who reside on their Lot.

Section 3.4. The Association's Rights : The rights of each Owner shall be subject to the Special Declarant Rights of the Declarant reserved herein and the following rights of the Association:

- A. To borrow money to improve the Common Elements and to mortgage said property as security for any such loan; provided, however, that the Association may not subject any portion of the Common Elements to a Security Interest unless such is approved by Members casting at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Lots not owned by the Declarant.
- B. To convey or dedicate all or any part of the Common Elements to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members entitled to cast at least eighty percent (80%) of the votes in the Association, including eighty percent (80%) of the votes allocated to Lots not owned by the Declarant or a Builder, and provided written notice of the proposed agreement and the proposed dedication or transfer is sent to every Member at least thirty (30) days in advance of any action taken. The granting of permits, licenses and easements for public utilities or for other purposes consistent with the intended use of such Common Elements shall not be deemed a transfer within the meaning of this clause.
- C. To adopt and distribute to Owners Rules with which each Owner and their Guests shall strictly comply.
- D. To suspend the voting rights of a Member for any period during and for up to sixty (60) days following any infraction or breach by such Member or a Guest of such Member of any provision of the Declaration, the Bylaws, or of any Rule unless such breach is a continuing breach, in which case such suspension shall continue for so long as such breach continues and for up to sixty (60) days thereafter.
- E. To take such steps as are reasonably necessary to protect the Common Elements against foreclosure.
- F. To enter into, make, perform or enforce any contracts, leases, agreements, licenses, easements and



rights-of-way, for the use of Common Elements by Owners and Guests for any purpose(s) the Board may deem to be useful, beneficial or otherwise appropriate.

G. To close or limit the use of the Common Elements temporarily if needed, or permanently if approved by the Members entitled to cast at least eighty percent (80%) of the votes in the Association in person or by proxy at a meeting duly held.

H. To limit use of Common Elements by specific Owners or their Guests if the Association has found that they have damaged the Common Elements or abused their previous use of the Common Elements.

Section 3.5. Payment of Taxes, Assessments or Insurance by Holders of First Security Interests : Holders of First Security Interests shall have the right, jointly or singly, to pay taxes or other charges or assessments which are in default and which may or have become a lien against the Common Elements and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Elements, and any First Security Interest Holders making any such payments shall be owed immediate reimbursement therefor from the Association.

ARTICLE IV
THE ASSOCIATION; PERIOD OF DECLARANT CONTROL

Section 4.1. Membership : Members of the Association shall be every record Owner of a Lot subject to this Declaration. Membership shall terminate on transfer of a fee simple title by the Owner, and may not be separated from the ownership of a Lot. The purposes and powers of the Association and the rights and obligations with respect to Members set forth in this Declaration shall be amplified by the Articles of Incorporation, Bylaws, Rules, and Design Guidelines.

Section 4.2. Two Classes of Membership: The Association shall have two classes of voting membership. Class A Memberships shall be non-Declarant Owners, who shall be entitled to one vote for each Lot owned in the Common Interest Community. Class B Memberships shall be the Declarant, who shall be entitled to three votes for each Lot owned in the Common Interest Community. Upon expiration of the Period of Declarant Control, the Class B Memberships shall automatically convert to Class A Memberships. If more than one person holds the membership interest, the vote for such Lot shall be exercised as the persons holding such interest shall determine between themselves, provided that in no event shall more than one vote be cast with respect to any Lot owned by a Class A Member.

Section 4.3. Authority of Board : Except as otherwise provided in this Declaration or the Bylaws, the Board of Directors may act in all instances on behalf of the Association.

Section 4.4. Declarant Control of the Association :

- A. There shall be a "Period of Declarant Control" during which a Declarant, or Persons designated by the Declarant, may appoint and remove the officers and members of the Board. The Period of Declarant Control terminates no later than the earlier of:
 - (i) Sixty (60) days after conveyance of seventy-five percent (75%) of the Lots that may be created to Owners other than the Declarant; or
 - (ii) Two (2) years after the last conveyance of a Lot by the Declarant in the ordinary course of business to an Owner or Owners other than Declarant.

Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Period of Declarant Control. In that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant



before they become effective.

B. Not later than the termination of any Period of Declarant Control, the Owners shall elect a Board of Directors of at least three (3) members, at least a majority of whom shall be Owners other than Declarant. The Board shall elect the officers. The Owners elected to the Board shall take office upon election.

C. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, the Owners, by a vote of sixty-seven percent (67%) of all persons present and entitled to vote at a meeting of the Owners at which a quorum is present, may remove a member of the Board of Directors with or without cause, other than a member appointed by the Declarant.

Section 4.5. Delivery of Documents by Declarant : Within sixty (60) days after the Owners other than the Declarant elect a majority of the Members of the Board of Directors, the Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by the Declarant, including, without limitation, the following items:

A. The original or a certified copy of the recorded Declaration, as amended, the Articles of Incorporation, Bylaws, minute books, other books and records, and any Rules which may have been promulgated;

B. An accounting for Association funds and audited financial statements from the date the Association received funds and ending on the date the Period of Declarant Control ends;

C. The Association funds, books and records;

D. All of the tangible personal property that has been represented by the Declarant to be the property of the Association or that is necessary for and has been used exclusively in the operation and enjoyment of the Common Elements;

E. A copy, for the nonexclusive use of the Association, of any plans and specifications used in the construction of improvements in the Common Interest Community;

F. All insurance policies then in force in which the Owners, the Association, or its directors and officers are named as insured persons;

G. Any other permits issued by governmental bodies applicable to the Common Interest Community and which are currently in force or which were issued within one (1) year prior to the date on which Owners other than the Declarant took control of the Association;

H. Written warranties of any contractor, subcontractors, suppliers and manufacturers that are still effective;

I. A roster of Owners and Eligible Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;

J. Employment contracts in which the Association is a contracting party; and

K. Any service contract in which the Association is a contracting party or in which the Association or the Owners have any obligation to pay a fee to the person performing the services.

Section 4.6 Management Agreements and Other Contracts: Any agreement for professional management of the Association's business or other contract providing for services of the Declarant shall have a maximum term of three (3) years and any such agreement shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) day's prior written notice; provided, however,

that any such management agreement(s) entered into by the Association with a manager or managing agent prior to termination of the Period of Declarant Control shall be subject to review and approval by HUD or VA if, at the time such agreement is entered into, HUD has insurance or VA has a guarantee(s) on one or more Security Interests, and shall terminate absolutely, in any event, no later than thirty (30) days after termination of the Period of Declarant Control.

Section 4.7 Association Retention of Records: The Association shall permanently retain the following records as required by Colorado law:

- A. Minutes of all Board and Owner meetings;
- B. A record of all actions taken by the Board or Owners by written ballot or email in lieu of a meeting;
- C. A record of all actions taken by a committee on behalf of the Board or on behalf of the Association;
- D. A record of all waivers of the notice requirements for Lot Owner meetings, Board member meetings, or committee meetings;
- E. A record of Lot Owners and the number of votes each Lot Owner is entitled to vote that permits the preparation of a list of the names and addresses of all Lot Owners;
- F. Financial records sufficient to allow the association to provide a written statement setting forth the amount of unpaid assessments currently levied against any Owners Lot within fourteen days of the receipt of such request;
- G. The Association=s articles of incorporation and bylaws.
- H. The project's Declaration and Plat Map;
 - I. Copies of any resolutions adopted by the Board of Directors relating to the characteristics, qualifications, rights, limitations, and obligations of Owners or any class or category of Owners.
- J. Copies of all written communications within the past three years to Lot Owners;
- K. A list of the names and business or home addresses of its current directors and officers.
- L. The Association=s most recent annual disclosure;
 - M. All financial audits, financial reviews or studies conducted during the immediately preceding three years.

Section 4.8 Inspection/Copying Association Records: An Owner or his/her authorized agent is entitled to inspect and copy any of the books and records of the Association, subject to the following exclusions, conditions and requirements:

A. **Fees/Costs.** Any Owner requesting copies of Association records shall be responsible for all actual costs incurred by the Association, including the cost to search, retrieve, and copy the record(s) requested. The Association may require a deposit equal to the anticipated actual cost of the requested records. Failure to pay such deposit shall be valid grounds for denying an Owner copies of such records. If after payment of the deposit it is determined that the actual cost was more than the deposit, Owner shall pay such amount prior to delivery of the copies. If after payment of the deposit it is determined that the actual cost was less than the deposit, the difference shall be returned to the Owner with the copies.

B. **Written Request/Purpose.** The Owner shall give the Association=s Managing Agent a written request, stating with reasonable particularity the records sought and the purpose for which the inspection and/or copying is sought.

C. **Reasonably Available.** The inspection and/or copying of the records of the Association shall be conducted after notice of at least 5 business days during normal business hours Monday through Friday, at the office of the Association or the Association=s Managing Agent, or at the next regularly scheduled meeting held within 30 days of the request.

- D. **Use of Records.** Association records shall not be used by any Owner for:
 - i. Any purpose unrelated to an Owner=s interest as an Owner;
 - ii. The purpose of soliciting money or property unless such money or property will be used



solely to solicit votes of the Owners in an election to be held by the Association; or

iii. Any commercial purpose; and records may not be sold or purchased.

E. Exclusions. The following confidential records shall NOT be available for inspection and/or copying:

- i. Attorney-client privileged documents and records, unless the Board decides to disclose such communications;
- ii. Any documents that are confidential under constitutional, statutory or judicially imposed requirements; and
- iii. Any documents, or information contained in such documents, disclosure of which would constitute an unwarranted invasion of individual privacy, including but not limited to social security numbers, dates of birth personal bank account information, and driver's license numbers.

F. Security. No Owner shall remove any original book or record of the Association from the place of inspection nor shall any Owner alter, destroy or mark in any manner, any Association record. An agent of the Association may observe any inspection of records or may make copies requested by an Owner.

4.9 Association Disclosures to Members: The Association shall provide to all Members, at least once per year, a written notice stating the name of the Association; the name of the Association's managing agent, if any; and a valid physical address and telephone number for both the Association and the managing agent. The notice shall also include the name of the Project, the initial date of recording of the Declaration, and the reception number or book and page for the main document that constitutes the Declaration. If the Association's address or managing agent changes, the Association shall provide all Members with an amended notice within ninety days after the change.

4.10 Annual Disclosures: Within ninety days after the end of each fiscal year, the Association shall make the following information available to Members:

- i. The date on which its fiscal year commences;
- ii. Its operating budget for the current fiscal year;
- iii. A list of the Association's current assessments, including both regular and special assessments;
- iv. Its annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;
- v. The results of any financial audit or review for the fiscal year immediately preceding the current annual disclosure;
- vi. A list of all association insurance policies, including, but not limited to, property, general liability, association director and officer professional liability, and fidelity policies. Such list shall include the company names, policy limits, policy deductibles, additional named insureds, and expiration dates of the policies listed.
- vii. The Association's Articles, Bylaws, and rules;

The Association has the widest possible latitude in methods and means of disclosure, if the required information is readily available at no cost to Members. Disclosure shall be accomplished by one of the following means: Posting on an internet web page with accompanying notice of the web address via first-class mail or e-mail; the maintenance of a literature table or binder at the Association's principal place of business; or mail or personal delivery. The cost of such distribution is a Common Expense.

4.11 Owner Disclosures Upon Lot Sale.

A. In every contract for purchase and sale of a Lot in the Project, the Owner shall furnish to buyer, at Owner's expense, copies of the following documents:

- i. Bylaws and Rules and Regulation of the Association;
- ii. Recorded Declaration;
- iii. Minutes of the most recent annual Owners' meeting and minutes of any of the Board of Directors meetings that occurred within the six months immediately preceding the Title Deadline;
- iv. The Association's operating budget;
- v. The Association's annual income and expenditures statement; and
- vi. The Association's annual balance sheet.



The Association shall use its best efforts to accommodate a request by the selling Member for the Association's records.

B. Every contract for sale of a Lot shall contain a disclosure statement in bold-faced type that is clearly legible and in substantially the following form:

"THE PROPERTY IS LOCATED WITHIN A COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR SUCH COMMUNITY. THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNER'S ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION."

4.12 Audit/Review of Association Financial Records:

A. Audit: The books and records of the Association shall be subject to an audit by a certified public accountant, using generally accepted auditing standards, upon the following conditions:

- a. At the discretion of the Board;
- b. The Association has annual revenues or expenditures of at least two hundred fifty thousand dollars, and an audit is requested by the owners of at least one-third of the Lots represented by the Association.

B. Review: The books and records of the Association shall be subject to a review by an independent and qualified person selected by the Board upon the conditions set forth below. The person selected to conduct a review need not be a certified public accountant, but shall have at least a basic understanding of the principles of accounting as a result of prior business experience, education above the high school level, or bona fide home study, and shall use statements on standards for accounting and review services. A review shall be conducted upon the following conditions:

- a. At the discretion of the Board;
- b. A review is requested by the owners of at least one-third of the Lots represented by the Association.

C. The audit or review report shall cover the Association's financial statements, which shall be prepared using generally accepted accounting principles or the cash or tax basis of accounting.

D. Copies of any audit or review shall be made available upon request to any unit owner beginning no later than thirty days after its completion.

ARTICLE V

SPECIAL DECLARANT RIGHTS

Section 5.1. Special Declarant Rights : The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Common Interest Community:

- A. To complete Improvements indicated on Plats filed with the Declaration;
- B. To exercise any Special Declarant Right reserved herein or authorized by law;
- C. To maintain construction, sales and management offices, and signs advertising the Common Interest Community and models;
- D. To use and to permit others to use easements through the Common Interest Community for construction, and to discharge Declarant's obligations under this Declaration;
- E. To appoint or remove any officer of the Association or a Board of Directors member during the Period of Declarant Control subject to the provisions of Section 4.4 of this Declaration;
- F. To amend the Declaration and the Plat in connection with the exercise of any Special Declarant Rights;
- G. To appoint or remove any Architectural Review Committee member; and
- H. To exercise any other Declarant right created by any other provision of this Declaration.
- I. The right to construct underground utility lines, pipes, wires, ducts, conduits and other facilities in, on or over the Property for the purpose of furnishing utility and other services to buildings and Improvements to be constructed on, and for the use and benefit of, the Property. Notwithstanding anything herein to the contrary, Declarant does not reserve and specifically disclaims any right or easement hereunder to construct underground utility lines, pipes, wires, ducts, conduits and other facilities either above or below ground upon that portion of any Lot where improvements may be located as specified by the Building Envelope requirements as shown on the recorded plat of said Lot.
- J. The right to replat the Common Interest Community into fewer Lots or additional or fewer Common Elements, and to convert Lots into Common Elements, provided however, that no replatting or conversion will be permitted without first obtaining the consent of the Board of County Commissioners of Lake County, Colorado, if required by Colorado law or the Lake County Development Code.

Section 5.2. Rights Transferable : Any Special Declarant Rights created or reserved under this Article for the benefit of Declarant may be transferred to any Person by an instrument describing the rights transferred and recorded in Lake County, Colorado. Such instrument shall be executed by the transferor Declarant and the transferee.

Section 5.3. Limitations on Special Declarant Rights : Unless terminated earlier by an amendment to this Declaration executed by the Declarant, any Special Declarant Right may be exercised by the Declarant or any Transferee of Rights pursuant to Section 5.2 for the period of Declarant control of the association specified in Section 4.4.

Section 5.4. Interference with Special Declarant Rights : Neither the Association nor any Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

Section 5.5. Construction Sales Management Offices : The Declarant, their duly authorized agents, representatives and employees may maintain any Lot owned by the Declarant, or any portion of the Common Elements as a model



Dwelling Unit, Lot, or construction, sales or management office.

Section 5.6. Construction: Declarant's Easement : The Declarant reserves the right to perform warranty work, and repairs and construction work on Lots and Common Elements, to store materials in secure areas, and to control and have the right of access to work and repairs until completion. All work may be performed without the consent or approval of the Board of Directors. The Declarant has an easement through each Lot and the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or Special Declarant Rights. This easement includes the right to convey utility and drainage easements to public utilities, municipalities or metropolitan or special improvement districts, the State, riparian owners or upland owners to fulfill the plan of development.

Section 5.7. Signs and Marketing : The Declarant reserves the right for Declarant to post signs and displays in the Common Elements in order to promote sales of Lots and Improvements. Declarant also reserves the right for Declarant to conduct general sales activities in a manner which will not unreasonably disturb the rights of Owners.

Section 5.8. Declarant's Personal Property : The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the Common Elements that is owned by them and has not been represented as property of the Association. The Declarant reserves the right to remove from the property (promptly after the conveyance of the last Lot) any and all goods and improvements owned by them and used in development, marketing and construction, whether or not they have become fixtures.

ARTICLE VI
MAINTENANCE

Section 6.1. Common Elements : The Association shall manage, operate, insure, maintain, repair and replace all of the Common Elements, and any drainage structure or facility or other public improvements required by local governmental entities, including without limitation, infiltration trenches, fire fighting facilities, snow removal from the fire fighting facilities, and any other maintenance obligations noted on the Plat, so long as such facilities remain under Association use and control.

Section 6.2. Lots : Owners shall maintain, repair and replace, at their own expense, all portions of their Lot. This shall include control of trash and other accumulated items that may be unsightly to other Owners, and removal of snow from the driveway. The Association shall have the right to enter and perform cleanup and maintenance services neglected by the Owner, and assess the Owner for any costs incurred.

Section 6.3. Right of Access : Any person authorized by the Board of Directors shall have the right of access to all portions of any Lot for the purpose of performing emergency repairs or to do other work reasonably necessary for the proper maintenance of the Common Interest Community, for the purpose of performing inspections, installations, alterations or repairs, and for the purpose of reading, repairing and replacing utility meters, water meters, water depths, effluent meters, effluent samples, and related pipes, valves, wires and equipment, provided that requests for entry are made in advance and that any entry is at a time reasonably convenient to the affected Owner. In case of an emergency or legal deadline, no request or notice is required and the right of entry shall be immediate, and with as much force as is reasonably necessary to gain entrance, whether or not the Owner is present at the time.

Section 6.4. Repairs Resulting From Negligence : Each Owner shall reimburse the Association for any damages to the Common Elements caused intentionally, negligently or by the failure to properly maintain, repair or make replacements to a Lot including drainage. If such expense is caused by misconduct, it will be assessed following Notice and Hearing. If damage is inflicted on any Lot as a result of entry thereon by the Association, through maintenance access under Section 6.3, the Association will be responsible to repair such damage.

ARTICLE VII
ASSESSMENT AND COLLECTION OF COMMON EXPENSES

Section 7.1. Apportionment of Common Expenses : Except as provided in Section 6.4 and Section 7.2, all Common Expenses shall be assessed against all Lots on a uniform and equal basis. All Common Expenses shall be assessed against all Lots in accord with the Allocated Interests. If additional Lots are added to the Common Interest Community, then the Common Expense liability shall be reallocated and any Common Expense Assessment not yet due shall be recalculated.

A. Initial Annual Common Expense Assessment. The Association may commence making Common Expense Assessments at any time determined by the Board. Until the Association makes a Common Expense Assessment, the Declarant shall pay all Common Expenses.

B. Annual Common Expense Assessment. Subject to the provisions of Section 7.1.A above, Annual Common Expense Assessments shall be fixed at a uniform rate for all Lots sufficient to meet the expected needs of the Association. The Annual Common Expense Assessments shall include an adequate reserve fund for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced on a periodic basis, and for the payment of insurance deductibles.

C. Levy of Assessments. The Annual Common Expense Assessment shall be levied on an annual basis in advance against all Lots and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such assessment year. Common Expense Assessments may be collected in annual installments, or in any other manner as determined by the Board of Directors. Common Expense Assessments may begin on the first day of the month in which conveyance of the first Lot to an Owner other than the Declarant occurs. The assessments shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Dwelling Units, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration or the Articles of Incorporation or Documents, or by law; provided, however, that such assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital Improvements.

Special Assessments shall be levied in accordance with Subsection D of this Section 7.1.

The omission or failure of the Board of Directors to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay the assessment thereafter. No assessment may be levied retroactively.

Common Expenses attributable to fewer than all Lots may be levied at any time, shall be due and payable as established by the Board, and are exempt from any voting requirements by the membership required for Special Assessments called for under the Declaration.

D. Special Assessments. In addition to the Annual Common Expense Assessments authorized in this Article, but subject to the limitations set forth herein, the Association, with the approval of the votes of sixty-seven percent (67%) of the votes entitled to be cast by the Members voting in person or by proxy at a meeting duly called for this purpose, may levy, in any fiscal year, a Special Assessment applicable to that year only, for the purpose of: (1) defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any portion of the Common Elements, including fixtures and personal property related thereto; or (2) for repair or reconstruction of any damaged or destroyed Improvements located on said Common Elements; or (3) for the funding of any operating deficit incurred by the Association. Any Special Assessment shall be levied against each Lot in a uniform and equal manner. A meeting of the Members called for the purpose of considering the establishment of a Special Assessment shall be held in conformance with Subsection E of this Section 7.1. Notwithstanding the foregoing, Special Assessments levied during the Period of Declarant Control may not be used for the purpose of constructing capital improvements.

E. Notice and Quorum for any Special Assessments. Written notice of any meeting called for the purpose of taking any action authorized under Subsection D of this Section 7.1 shall be sent to all Members not less than fifteen (15) days nor more than fifty (50) days in advance of the meeting. At the first such



meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the Membership votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. If the required quorum is not present at a subsequent meeting, the proposed Special Assessment shall be deemed disapproved by the Members, but future proposals may be submitted to the approval of the Members pursuant to the provisions of this Subsection E.

Section 7.2. Common Expenses Attributable to Fewer than all Lots : The following Common Expenses may be assessed to one or more, but fewer than all, of the Lots:

- A. Any insurance premium increase attributable to a particular Lot by virtue of activities in or construction of the Lot shall be assessed against that Lot.
- B. If a Common Expense is caused by the misconduct of an Owner or Guest, the Association may assess that expense exclusively against that Owner's Lot.
- C. Fees, including attorney fees, charges, taxes, impositions, late charges, fines, collection costs and interest charged against an Owner pursuant to the Documents and the Act may be assessed against that Lot as Common Expense assessments.
- D. Silvicultural maintenance of private open space areas that is not performed by the individual homeowner, whether through their own choice or through Association decisions, shall be assessed against the specific Lot on which the work is performed.
- E. Any common expense benefiting fewer than all of the Lots may be assessed exclusively against the Lots benefited.

Section 7.3. Lien :

- A. The Association has a lien on a Lot for a Common Expense Assessment levied against the Lot under Section 7.1 and all fees established or fines imposed against its Owner, from the time the Common Expense Assessment or fine becomes due. If a Common Expense Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid acceleration of installment obligations.
- B. A lien under this Section is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a Security Interest on the Lot which has priority over all other Security Interests on the Lot and recorded before the date on which the Common Expense Assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Lot. A lien under this Section is also prior to all Security Interests described in (2) above of this Subsection B to the extent of an amount equal to the Common Expense Assessments based on the periodic budget adopted by the Association pursuant to Section 7.4 which would have become due, in the absence of acceleration, during the six (6) months immediately preceding institution by either the Association or the holder of a First Security Interest of an action or a nonjudicial foreclosure either to enforce or extinguish either the Association's lien or a Security Interest described in (2) of this Subsection B. This Subsection B does not affect the priority of mechanics' or materialmen's liens or the priority of a lien for other assessments made by the Association. A lien under this Section is not subject to the provision of Section 38-41-201 or 15-11-201, C.R.S. The Association's lien on a Lot for any assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien.



Notwithstanding any provision of this Section 7.3.B. to the contrary, the lien of the assessments provided for herein shall be subordinate to the lien of any purchase money loan evidenced by a recorded first mortgage or recorded first deed of trust, and to any executory land sales contract wherein the Administrator of Veterans Affairs (Veterans Administration) is seller, whether such contract is owned by the Veterans Administration or its assigns, and whether recorded or not. However, the lien of such assessments shall be superior to any homestead exemption of a deed to land subject to this Declaration of Covenants, Conditions and Restrictions shall constitute a waiver of the homestead exemption as against the said assessment lien. Sale or transfer of any lot shall not affect the assessment lien. However the sale or transfer of any lot pursuant to mortgage foreclosure, or any proceeding in lieu thereof, or the cancellation or foreclosure of any executory land sales contract wherein the Administrator of Veterans Affairs (Veterans Administration) is seller, whether such contract is owned by the Veterans Administration or its assigns, and whether recorded or not, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

- C. Recording of this Declaration constitutes record notice and perfection of the lien. Further recording of a claim of lien for a Common Expense Assessment is not required. However, the Board of Directors or Manager of the Association may prepare and record in Lake County a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot, and a description of the Lot. If a notice of lien is filed, the costs and expenses thereof shall be added to the assessment for the Lot against which it is filed and collected as part and parcel thereof.
- D. A lien for an unpaid Common Expense Assessment is extinguished unless proceedings to enforce the lien are instituted within six (6) years after the full amount of the Common Expense Assessment becomes due.
- E. This Section does not prohibit an action to recover sums for which Subsection (A) of this Section creates a lien or to prohibit the Association from taking a deed in lieu of foreclosure.
- F. A judgment or decree in any action brought under this Section shall entitle the Association to costs and reasonable attorney fees, which shall be additional Common Expense Assessments, and is enforceable by execution.
- G. The Association's lien may be foreclosed by the same procedure by which a mortgage or deed of trust on real estate is foreclosed. The Board shall have the power to bid at the foreclosure sale, and if title is obtained, hold, lease, mortgage, and encumber or convey the same.
- H. In any action by the Association to collect Common Expense Assessments or to foreclose a lien for unpaid Common Expense Assessments, the court may appoint a receiver for the Owner to collect all sums alleged to be due from that Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Common Expense Assessments.
- I. If a holder of a first or second Security Interest in a Lot forecloses that Security Interest, the purchaser at the foreclosure sale is not liable for any unpaid Common Expense Assessments against that Lot which became due before the sale, other than the assessments which are prior to that Security Interest under Subsection B of this Section of the Declaration. Any unpaid Common Expense Assessments not satisfied from the proceeds of sale become Common Expenses collectible from all the Owners, including the purchaser.
- J. Any payments received by the Association in the discharge of an Owner's obligation may be applied to attorney fees and costs first, then late fees, penalties and interest, and then the oldest balance due.
- K. Sale or transfer of any Lot shall not affect the lien for said assessments or charges except that sale or transfer of any Lot pursuant to foreclosure of any First Security Interest, or any proceeding in lieu



thereof, including deed in lieu of foreclosure, or cancellation or forfeiture, shall only extinguish the lien of assessment charges as provided by applicable Colorado law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture, shall relieve any Lot from continuing liability for any assessment charges thereafter becoming due, nor from the lien thereof.

Section 7.4. Budget Adoption and Ratification : Within thirty (30) days after adoption of any proposed budget for the Common Interest Community, the Board of Directors shall mail first class or deliver a summary of the budget to each Owner and shall set a date for a meeting of the Owners to consider ratification of the budget. The meeting shall be not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting at least sixty-seven percent (67%) of the votes entitled to be cast by all Owners vote to reject the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Owners continues until the Owners ratify a new budget proposed by the Board of Directors.

Section 7.5. Certificate of Payment of Common Expense Assessments : The Association, upon written request, shall furnish an Owner or their designee, or a holder of a Security Interest or its designee, a written Statement setting out the amount of unpaid Common Expense Assessments against the Lot. Said request shall be delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the Association's registered agent. The Statement shall be furnished within fourteen (14) calendar days after receipt of the request, delivered personally or by certified mail, first class postage prepaid, return receipt requested, and is binding on the Association, the Board of Directors and each Owner, or 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 7.6. Effect of Nonpayment of Assessments; Remedies of the Association : Any assessment not paid within ten (10) days after the due date thereof shall be delinquent, and shall be subject to fees authorized by Section 7.2, including interest from the due date at the rate of eighteen percent (18%) per annum, or at such lesser rate as may be set from time to time by the Board of Directors. Fees, including attorney fees, charges, late charges, fines and interest may be charged due to late payment of assessments under this Section. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against such Lot. If a judgment or decree is obtained, including without limitation in a foreclosure action, such judgment or decree shall include interest on the assessment and attorney's fees, together with the costs of the action, and other fees.

Section 7.7. Acceleration of Common Expense Assessments : If any Owner does not make the payment of any Common Expense Assessment levied against their Lot within ten (10) days of the date due, the Board of Directors shall have the right to declare all unpaid Common Expense Assessments for the pertinent fiscal year immediately due and payable for that Lot.

Section 7.8. No Waiver of Liability for Common Expenses : No Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Elements, by abandonment of the Lot against which the Common Expense Assessments are made, or because of dissatisfaction with the Association's performance.

Section 7.9. Personal Liability of Owners : Each Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is personally liable for Common Expense Assessments made against such Owner's Lot during the period of ownership of such Lot, at the time a Common Expense Assessment or portion of the assessment is due and payable. Personal liability for the Common Expense Assessment shall not pass to a successor in title to the Lot unless the successor agrees to assume the obligation. All Owners of each Lot shall be jointly and severally liable to the Association for the payment of all assessments, including fees described in Section 7.2. The obligation for such payments by each Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without setoff or deduction.

Section 7.10. Surplus Funds : Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves shall be retained by the Association as



unallocated reserves and need not be paid to the Owners in proportion to their Common Expense Liability but may be credited to them to reduce their future Common Expense Assessments.

Section 7.11. Working Capital Fund : The Association shall require the first Owner of any Lot (other than a Declarant or a Builder) who purchases that Lot from Declarant or a Builder to make a nonrefundable contribution to the Association in the amount equal to one-sixth (1/6th) of the total annual assessment at the time of sale (regardless of whether or not assessments have commenced as provided in Section 7.1). Said contribution shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Lot as aforesaid, and shall, until used, be maintained in a segregated account with other such working capital funds for the use and benefit of the Association as the Board deems desirable, including, without limitation, to meet unforeseen expenditures or to purchase additional equipment, property or services. Such contribution to the working capital fund shall not relieve an Owner from making regular payments of assessment as the same become due. Upon the transfer of their Lot, an Owner shall be entitled to a credit from their transferee (but not from the Association) for the aforesaid contribution to working capital fund. The Association may, from time-to-time, increase the amount required for each Owner's share of the Working Capital Fund to an amount equal to one-sixth (1/6th) of the then current total annual assessment for each Owner.

ARTICLE VIII ARCHITECTURAL REVIEW COMMITTEE

Section 8.1. Written Approval of Plans Required : No Improvements shall be constructed, erected, placed, applied or installed upon any Lot unless plans and specifications therefor shall have been first submitted in triplicate to and approved in writing by the Architectural Review Committee. Said plans and specifications shall show exterior design, height, materials, color, and location of the Improvements, and type of fencing, walls, windbreaks and grading plan, as well as such other materials and information that may be required by the Architectural Review Committee. The Architectural Review Committee shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residences, and structures, and conform to this Declaration, the Design Guidelines and Rules, and any additional guidelines, standards, rules, regulations and procedures promulgated by the Association. In its review of such plans, specifications and other materials and information, the Architectural Review Committee may require that the applicant(s) reimburse the Architectural Review Committee for the actual expenses incurred by the Committee in the review and approval process. Such amounts, if any, shall be levied in addition to the Common Expense assessment against the Lot for which the request for Architectural Review Committee approval was made, but shall be subject to the Association's lien for assessments and subject to all other rights of the Association for the collection of such assessments, as more fully provided in this Declaration. All work authorized by the Architectural Review Committee shall be completed within the time limits established therefor.

Section 8.2. Additional Guidelines, Standards, Rules, Regulations and Procedures : The Board of Directors may, from time to time, adopt, promulgate, amend or otherwise revise additional guidelines, standards, rules and regulations and procedures governing Architectural Review for the purposes of:

- A. Further enhancing, defining, or interpreting what items or improvements are covered by this Article VIII; and
- B. Providing for changes in technology, industry standards, style, materials, safety issues, consistency with updated building codes or other laws or ordinances, or for any other reason that the Board of Directors deems to be proper, necessary or in the best interests of the community.

In determining what is in the best interests of the community, the Board of Directors may, but shall not be required to, solicit input from: (1) Owners whose Lots are near a proposed improvement or item to be placed on a Lot; or (2) From the entire community. The Board of Directors shall not be bound by said input but shall use its best judgment in approving or disapproving the proposed improvement or item.

Any additional guidelines, standards, rules and regulations, procedure or amendment thereto, shall apply to construction, additions, modifications, installations or items placed on a Lot occurring after the date such additional

guidelines, standards, rules and regulations, procedures or amendments are published or otherwise made available to all Owners.

Section 8.3. Membership of Committee : The Architectural Review Committee shall consist of three (3) or more persons appointed by the Board of Directors; provided, however, that until all of the Lots have had a Dwelling Unit constructed thereon and have been conveyed to the first Owner thereof (other than Declarant), Declarant may at its option appoint the Architectural Review Committee. The power to appoint shall include the power to fill any vacancy and remove any member of the Architectural Review Committee, with or without cause, at any time, and appoint the successor thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the Board.

Section 8.4. Procedures : The Architectural Review Committee shall approve or disapprove all requests for approval within thirty (30) days after the complete submission of the plans, specifications and other materials and information which the Committee may require or request in conjunction therewith. If the Architectural Review Committee fails to approve or disapprove any request within thirty (30) days after the complete submission of the plans, specifications, materials and other information with respect thereto, the request shall be deemed to have been disapproved by the Architectural Control Committee. However, applicant may resubmit the application.

Section 8.5. Vote and Appeal : A majority vote of the Architectural Review Committee is required to approve a request for approval pursuant to this Article, unless the Committee has appointed a representative to act for it, in which case the decision of such representative shall control. If a representative acting on behalf of the Architectural Review Committee approves or denies a request for architectural approval, any Owner shall have the right to an appeal of such decision to the full Architectural Review Committee, upon a request therefor submitted to the Architectural Review Committee within thirty (30) days after such approval or denial by the Committee's representative. If an application for architectural approval is approved or denied by the Architectural Review Committee, whether pursuant to an original request for approval or on appeal from a decision of a representative of the Architectural Review Committee, any Owner shall have the right to appeal such decision to the Board of Directors, if a written request for a hearing on an appeal of the same shall be submitted to the Board within thirty (30) days after such approval or denial by the Architectural Review Committee.

Section 8.6. Records : The Architectural Review Committee shall maintain written records of all applications submitted to it and all actions taken by it, and such records shall be available to Members for inspection at reasonable hours.

Section 8.7. Liability : The Architectural Review Committee and the members thereof, as well as the Declarant, the Association, the Board of Directors, or any representative of the Architectural Review Committee appointed to act on its behalf, shall not be liable for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Review Committee for any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder, if such action was in good faith or without malice. In reviewing any matter, the Architectural Review Committee shall not be responsible for passing on safety, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations, nor shall its approval of an Improvement be deemed approval of such matters.

Section 8.8. Variance : The Architectural Review Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments (1) shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or improvements in the neighborhood; (2) shall not militate against the general intent and purpose hereof; and (3) shall not set a precedent for any other applicant.

Section 8.9. Waivers : The approval or consent of the Architectural Review Committee, any representative thereof, or the Board of Directors, to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Architectural Review Committee, any representative thereof, or the Board of Directors, as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required.

ARTICLE IX
RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

Section 9.1. Restrictions Imposed : All of the Lots shall be held, conveyed, used, improved, occupied, owned, resided upon and secured, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration. These restrictions are general in nature and the Board shall have the power and duty to adopt, amend, repeal and enforce more specific and restrictive Design Guidelines and Rules as the Board deems to be reasonable and necessary to carry out the intent of this Declaration.

Section 9.2. Business Use Restrictions : Subject to the Special Declarant Rights reserved under Article V, the following use restrictions apply to all Lots and Dwelling Units and to the Common Elements.

A. The use of each Lot and Dwelling Unit is restricted to that of a single family residence and accessory uses as permitted herein. A single-family residence is defined as a single housekeeping unit, operating on a nonprofit, noncommercial basis with a common kitchen and dining area. Except for those activities conducted as a part of the marketing and development program of the Declarant, no business, trade, professional or commercial activities ("business activity") of any kind may be conducted in or from any Lot except that an Owner or Guest residing in a Dwelling Unit may conduct such business activity within the Lot so long as:

- (1) No business, trade, professional or commercial Improvement or building devoted to business, trade, professional, commercial or public enterprises shall be erected or used on any Lot.
- (2) The existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the Lot, and does not increase traffic. No signs shall be displayed related to the business. Vehicles with business identification shall not be parked outside of a garage.
- (3) The business activity conforms to all zoning requirements for the property.
- (4) The business activity does not increase the insurance obligation or premium of the Association.
- (5) The business activity is consistent with the residential character of the Lot and does not constitute a nuisance or hazardous or offensive use, as determined in the sole discretion of the Board of Directors.
- (6) No Lot shall be used or rented for transient, hotel or motel purposes. Rentals for terms of less than six (6) months shall be regulated by the Board of Directors. Longer term rentals that are terminated in less than 6 months may subject Owner to strict regulation of all rentals by the Board of Directors.

B. The terms "business, trade, professional or commercial" and "business activity" shall be construed to have their 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 consideration, regardless of whether such activity is engaged in full or part time, generates a profit, or requires a license.

C. Declarant and their respective employees, agents, and contractors, may perform such reasonable activities, and maintain upon portions of the Lots or the Common Elements such facilities as Declarant deems reasonably necessary or incidental to the development, construction and sale of Lots, and development and construction of Improvements, specifically including, without limiting the generality of the foregoing, maintaining management offices, signs, model units, construction offices, trailers and sales offices, in such numbers, of such sizes, and at such locations as Declarant determines in its reasonable



discretion. All facilities, structures and signs to be maintained during Construction must have the advance and continuing approval of the Declarant or Association.

D. Uses described as "day care" or "child care" facilities (licensed or unlicensed) are expressly prohibited.

Section 9.3. Occupancy and Use Restrictions : Subject to the Special Declarant Rights reserved under Article V, the following occupancy restrictions apply to all Lots and to the Common Elements:

A. Lots and Dwelling Units shall not be permitted to fall into disrepair; and shall be kept and maintained in a clean, safe, attractive and tidy condition and pursuant to all Rules and Design Guidelines, except as necessary during any period of construction. Homeowners may enter into an agreement with the Association to maintain any Open Space on their Lot according to Association Rules and Design Guidelines, or they may agree to have the work done by a contractor through the Association and have the costs assessed against their Lot. Homeowners who violate their agreements shall not be eligible to perform the maintenance on their own private open space, and it shall be performed at Owner expense by the Association through a contractor. Permission for Association and contractor access to inspect open space and to supervise and perform maintenance work is hereby granted.

B. Garages are restricted to occupancy by the residents of the Dwelling Unit for residential storage and for parking space for vehicles (as limited by Section 9.3.K). Carports are not permitted. Fences are prohibited, except for one approved privacy and security fence for trash containers enclosing an area of 40 square feet attached to a building and finished harmoniously. Trash containers shall be wildlife-proof (and especially bear-proof), and shall be stored inside a garage or fenced enclosure at all times except the day that trash is being collected.

C. No immoral, improper, offensive or unlawful use may be made of the Property. Owners and Guests shall comply with and conform to all applicable laws and regulations of the United States, the State of Colorado and all other governmental ordinances, rules and regulations; violations thereof shall be a breach of this Declaration, subject to enforcement by the Association. Determination of whether an activity violates this covenant shall be at the sole discretion of the Board of Directors or other committees and shall be subject to the Rules.

D. No noxious, offensive, dangerous or unsafe activity shall be conducted in or on any Lot, nor shall anything be done, either willfully or negligently, which may be or become a reasonable annoyance or nuisance to the other Owners or Guests. No Owner or Guest shall make or permit any disturbing noises nor do or permit anything to be done by others that will interfere with the rights, comforts or convenience of other Owners or Guests. Habitually barking, howling or yelping dogs that can be heard from the outside shall be deemed a nuisance. The use of exterior spot lights, searchlights, speakers, horns, whistles, bells or other light or sound devices on any Lot is prohibited by the Design Guidelines and Rules. The terms "annoyance" and "nuisance" shall not include any activities of Declarant or a Builder which are reasonably necessary to the development and construction of, and sales activities on, the Lots, or with any ingress and egress to or from a Lot and a public way.

E. Except as may be approved in writing by the Board of Directors, nothing shall be done or kept which may result in a material increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

F. Pets may not be kept for any commercial purposes. Any pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon three (3) days' written notice following Notice and Hearing from the Board of Directors. Pets or animals that live primarily outside of an Owner's residence are prohibited. No animal shall be permitted to roam free on its Owner's Lot or those of others, shall be tied to a stake or tree or other outside structure, or shall have an outdoor kennel or shelter. No animal may be permitted outdoors at all unless confined by a leash kept in hand at all times by an Owner or Guest. Owners and Guests shall immediately clean-up after their pets.



Owners and Guests shall hold the Association harmless from any claim resulting from any action of their pets. The right to keep household pets is strictly regulated by the Rules issued by the Board, shall be subject to fines for violations, and shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets, and any such fines, costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in this Declaration.

G. If, due to the act or neglect of an Owner or Guests, loss or damage shall occur or be caused to any person or property within the Common Elements, such Owner or Guest shall be liable and responsible for the payment of same. The amount of such loss or damage, together with costs of collection and reasonable attorney's fees, if necessary, may be collected by the Board of Directors after Notice and Hearing, from such Owner as a Common Expense Assessment against such Owner in accordance with Section 7.2. Determination with respect to whether or not a particular activity or occurrence shall constitute a violation shall be made by the Board of Directors and shall be final.

H. Subject to the Rules and Design Guidelines, all unsightly conditions, structures, facilities, equipment, objects and conditions shall be enclosed within an approved structure, including all tractors, snow removal equipment and garden or maintenance equipment, except when actually in use. Also, all service areas for hanging, drying or airing of clothing shall be kept within approved structures.

I. Utility or storage sheds are subject to the provisions of this Declaration related to Improvements and are subject to further provisions of the Design Guidelines. Utility and storage sheds shall: (1) be constructed so as not to encroach beyond the Building Envelope; (2) be constructed on a level ground pad; (3) not alter drainage patterns of a Lot; (4) not exceed 8' X 10' in either base dimension; (5) not exceed 7' in height at its highest point measured from the pad if visible from any street or Lot within the Common Interest Community, and in any event, not exceed 8' in height at its highest point measured from the pad; (6) be located so as not to be viewed in full from the front of the Lot; and (7) be constructed of materials and colors that match or are compatible with the Dwelling Unit.

J. Each Owner shall keep their lot at all times in a neat and clean condition. No refuse, garbage, trash, lumber, grass, shrubs or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate on any Lot unless placed in a suitable container suitably located solely for the purpose of garbage pickup. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition, and shall be obscured from public view by planting, fences or other means, except that containers containing such material may be placed outside at proper times for garbage or trash pickup. Each Owner shall provide for a regular removal of garbage and agrees to use the trash company as designated by the Board of Directors, if one is so designated; the Association has the power to provide and pay for regular or periodic trash removal as a Common Expense, if it so decides. The Association shall have the right, through its agents and employees, after Notice and Hearing to enter upon any Lot and maintain it and remove unsightly objects and materials. The cost of such maintenance and removal shall be chargeable to such Owner, together with any fines levied.

K. Recreational or business vehicles, including but not limited to, trailers of any kind, campers (including camper shells and motor homes), buses, vans, boats or boat accessories, and trucks larger than three-quarter (3/4) ton (as defined by Colorado Department of Motor Vehicles), self-contained and other motorized recreational vehicles, all terrain vehicles, any other vehicle clearly designed or designated by the manufacturer or the owner thereof (through signage or accessories) to be a commercial or recreational vehicle, even though it may be licensed by a state as a passenger vehicle, shall not be parked, placed, stored or maintained anywhere within the Common Interest Community so they are visible from any other Lot or from the Common Elements or from any street within the Common Interest Community except in emergencies or as a temporary expedience for loading or unloading, unless in conformance with the Rules and Regulations. Any vehicle may be towed by the Association if it is in violation of any City, County or State regulation or this Declaration or the Rules. The Board may adopt and enforce additional Rules regarding parking, and those Rules shall have the same force and effect as these restrictions. These restrictions, however, shall not restrict trucks or other business vehicles which are temporarily necessary



for construction or for the maintenance of the Lots or any Improvements located thereon.

L. No abandoned or inoperable vehicle of any kind shall be stored or parked on any Lot unless it cannot be seen from any street or other Property. An "abandoned or inoperable vehicle" shall be defined as any vehicle which has not been driven under its own propulsion for a period of ninety-six (96) hours or longer, or which does not have an operable propulsion system installed therein.

M. If the Association shall determine that a vehicle is parked, stored or used in violation of this Section 9.3, then a written notice describing said vehicle shall be conspicuously placed upon the vehicle and if the vehicle is not removed within a reasonable time thereafter, as determined by the Association in its discretion from time to time, the Association shall have the right to tow the vehicle at the sole expense of the owner of the vehicle or the Lot.

N. No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicle, trailer or boat, may be performed or conducted on any Lot unless it is done within a garage and in a manner that screens the sight and sound of the activity from the street and from any other Property. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, motor-driven cycle, or other vehicle, together with those activities normally incident and necessary to such washing and polishing.

O. No signs, window display or advertising visible from outside a Lot shall be maintained or permitted in any part of a Lot, unless in conformance with Rules or Design Guidelines issued by the Association.

P. Locations for wells and septic systems must be approved in writing in advance by the Architectural Review Committee, and shall also be subject to County and State approval. Wells shall be constructed with access provisions for water level measurement, water sampling, and water meter reading by the Association, as further described in the Design Guidelines. Septic systems must be constructed with provisions for effluent metering and sampling by the Association, and constructed to meet the strict Association standards, as further described in the Design Guidelines. Architectural Review Committee approval in writing is required for all septic system designs before construction can begin. Access for the Association and its contractors is hereby granted for inspection, reading, sampling, and enforcement of standards. Permission for injunctive relief in favor of the Association in its enforcement of these provisions is hereby granted. Association may enter into agreements for community water or sewer service with existing or new districts, and all Owners shall be obligated to comply with Association decisions at their own expense for private services and proportionally for shared services.

Q. Minimum square footage of the ground floor footprint of any primary dwelling unit, exclusive of additional floors, garages, porches, decks, balconies, patios, or other appurtenant structures, shall be 1500 square feet. Other restrictions may be found in the Design Guidelines, and advance written approval of the Architectural Review Committee is required in addition to compliance with all Design Guidelines and other Documents before any construction or excavation can occur. Substantial fines may be assessed for any violations of these provisions.

R. The Board may establish and enforce penalties for the infraction of any Covenants, Rules or Design Guidelines, including, without limitation, the levying and collecting of fines for the violation of any of such requirements or restrictions.

Section 9.4. Restrictions on Alienation : A Lot may not be leased or rented for a term of less than six (6) months, except in compliance with Rules established by the Board of Directors; or for less than the whole Lot. All leases and rental agreements shall be in writing; include a provision that the lease is subject to the terms of this Declaration, the Bylaws of the Association and the Rules, and that the failure of the tenant to comply with the terms of the Declaration or Bylaws or the Rules shall constitute a default enforceable by either the Association or Owner, or by both of them. Any Owner who leases their Lot shall obtain advance approval, and within three (3) days after the execution of such lease, mail or deliver a copy of same to the Association. The tenant will recognize and attorn

to the Association as landlord, solely for the purpose of having the power to enforce a violation of the provisions of the Documents against the tenant, provided the Association gives the landlord notice of its intent to so enforce and a reasonable opportunity to cure the violation directly, prior to the commencement of an enforcement action.

Section 9.5 Compliance Policies: The set forth policies in this section are adopted in conformity with the 2005 and 2006 amendments to the Colorado Common Interest Ownership Act, 38-33.3-101, et seq, C.R.S., which are generally known as SB 100 and SB 89.

A. Prohibitions Contrary to Public Policy - Xeriscape: The Board shall not adopt any regulation or take any action that prohibits or limits xeriscape, prohibits or limits the installation or use of drought-tolerant vegetative landscapes, or requires cultivated vegetation to consist exclusively or primarily of turf grass, all as more specifically set forth and defined in Section 37-60-126, C.R.S.

B. Prohibitions Contrary to Public Policy - Patriotic and Political Expression. The Association shall not prohibit any of the following:

1. The display of the American flag by a Member on that Member's property, in a window of the Member's residence, or on a balcony adjoining the Member's property if the American flag is displayed in a manner consistent with the federal flag code, P.L. 94-344; 90 stat. 810; 4 U.S.C. 4 to 10. The Association may adopt reasonable rules regarding the placement and manner of display of the American flag. The Association rules may regulate the location and size of flags and flagpoles, but shall not prohibit the installation of a flag or flagpole.

2. The display by a Member of a service flag bearing a star denoting the service of the Member or a member of the Member's immediate family in the active or reserve military service of the United States during a time of war or armed conflict, on the inside of a window or door of the Member's residence. The Association may adopt reasonable rules regarding the size and manner of display of service flags; except that the maximum dimensions allowed shall be not less than nine inches by sixteen inches.

3. The display of a political sign by a Member or in a window of the Member's Lot; except that the Association may prohibit the display of political signs earlier than forty-five days before the day of an election and later than seven days after an election day. The Association shall permit at least one political sign per political office or ballot issue that is contested in a pending election, with the maximum dimensions of thirty-six inches by forty-eight inches, on a Member's property. As used in this subparagraph, "political sign" means a sign that carries a message intended to influence the outcome of an election, including supporting or opposing the election of a candidate, the recall of a public official, or the passage of a ballot issue.

C. Prohibitions Contrary to Public Policy - Parking of Emergency Vehicles: The Association shall not prohibit the parking of a motor vehicle by a Lot occupant on a street, driveway, or guest parking area if the vehicle is required to be available at designated periods at the occupant's residence as a condition of employment and all of the following criteria are met:

1. The vehicle has a gross vehicle weight rating of ten thousand pounds or less;
2. The occupant is a bona fide member of a volunteer fire department or is employed by a primary provider of emergency fire fighting, law enforcement, ambulance, or emergency medical services;
3. The vehicle bears an official emblem or other visible designation of the emergency service provider; and
4. Parking of the vehicle can be accomplished without obstructing emergency access or interfering with the reasonable needs of other Lot Owners to use streets and driveways within the common interest community.

D. Prohibitions Contrary to Public Policy - Fire Prevention - Vegetation Removal: The Association



shall not prohibit the removal by a Lot owner of trees, shrubs, or other vegetation to create defensible space around a dwelling for fire mitigation purposes, so long as such removal complies with a written defensible space plan created for the property by the Colorado state forest service, an individual or company certified by a local governmental entity to create such a plan, or the fire chief, fire marshal, or fire protection district within whose jurisdiction the unit is located, and is no more extensive than necessary to comply with such plan. The Lot owner shall register such plan with the Association before the commencement of work. The Association may require changes to the plan if the Association obtains the consent of the person, official, or agency that originally created the plan. The work shall comply with all applicable Association standards regarding slash removal, stump height, revegetation, and contractor regulations, if any.

E. **Prohibitions Contrary to Public Policy - Roofing Materials:** The Association shall not prohibit the replacement by a Lot owner of cedar shakes or other flammable roofing materials with nonflammable roofing materials for fire prevention or fire suppression purposes. The Association may adopt reasonable standards for the color, appearance, and general type of nonflammable roofing materials that are used to replace flammable roofing materials, but may not require the use of nonflammable materials that exceed the replacement cost of the flammable materials for which they are being substituted.

ARTICLE X INSURANCE

Section 10.1. **Coverage:** To the extent reasonably available, the Board of Directors shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, or if any policy is cancelled, or not renewed, without a replacement policy having been obtained, the Association shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners at their respective last known addresses.

Section 10.2. **Property Insurance Coverage:** The Association shall obtain property insurance on the Common Elements for broad form covered causes of loss and on all personal property owned by the Association. The property insurance will be for an amount (after application of any deductions for depreciation) equal to one hundred percent (100%) of full insurable replacement cost of the insured property less applicable deductibles, exclusive of land, foundations, excavations and other items normally excluded from property policies. The Board of Directors is authorized to obtain appraisals periodically for the purpose of establishing replacement cost of the property, and the cost of such appraisals shall be a Common Expense.

Section 10.3. **Liability Insurance:** Commercial General Liability insurance shall be maintained in an amount determined by the Board of Directors, but in no event shall it be less than \$1,000,000. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits may also be obtained. This 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; and may also include, if applicable, comprehensive automobile liability insurance, garagekeeper's liability, liability for property of others, host liquor liability, water damage liability, contractual liability, and such other risks as shall customarily be required by private institutional mortgage investors with respect to projects similar in construction, location and use.

Section 10.4 **Mandatory Provisions** The insurance policies carried pursuant to Sections 10.2 and 10.3 shall provide that:

- A. Each Owner is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Elements or membership in the Association;
- B. The insurer waives the right to subrogation under the policy against an Owner or member of the household of an Owner;
- C. No act or omission by an Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy;

D. If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance; and

E. The insurer shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or holder of a Security Interest. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Owner and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued at their last known addresses.

Section 10.5. Fidelity Bonds : The Association may obtain and maintain, to the extent reasonably available, fidelity bond insurance coverage for any Owner or Association employee who either handles or is responsible for funds held or administered by the Association. The bond or insurance shall name the Association as obligee, and shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. If reasonably available, the bond or coverage shall be the sum of two (2) month's assessments for all Lots plus up to one hundred percent (100%) of the reserve funds as calculated from the current budget of the Association. The bond or coverage shall include a provision that calls for ten (10) day's written notice to the Association, before the bond can be cancelled or substantially modified for any reason. The Association shall also require any independent contractor who manages the Association to obtain and maintain fidelity bond insurance coverage in the amount required by law or to the extent that it is reasonably available, unless they are covered under the Association's fidelity bond insurance coverage.

Section 10.6. Owner Policies : An insurance policy issued to the Association does not preclude Owners from obtaining insurance for their own benefit.

Section 10.7. Workers Compensation Insurance : The Board of Directors shall obtain and maintain Workers Compensation Insurance if required to meet the requirements of the laws of the State of Colorado.

Section 10.8. Directors' and Officers' Liability Insurance : The Board of Directors shall obtain and maintain directors' and officers' liability insurance, if reasonably available, covering all of the directors and officers of the Association. This insurance will have limits determined by the Board of Directors.

Section 10.9. Other Insurance : The Association may carry other insurance which the Board of Directors considers appropriate to protect the Association. If any parcels of real property which the Association has an obligation to repair or reconstruct is located within an area identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on such parcels has been made available under the National Flood Insurance Program, then the Board may obtain a policy of flood insurance on such parcels in an amount at least equal to the lesser of:

A. The maximum coverage available under the National Flood Insurance Program for all buildings and other insurable property located within a designated flood hazard area; or

B. One hundred percent (100%) of current replacement cost of all buildings and other insurable property located within a designated flood hazard area.

Section 10.10. Premiums : Insurance premiums for insurance carried by the Association shall be a Common Expense.

Section 10.11. Procedures : The Board of Directors may adopt written nondiscriminatory policies and procedures for claims adjustment and responsibility for deductibles. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. If more than one (1) Lot is damaged by a loss, the Association, in its reasonable discretion, may assess each Owner a pro rata share of any deductible paid by the Association.

Section 10.12. General Provisions : All Association insurance shall be carried in blanket policy form naming the Association as insured, or naming its designee as trustee and attorney-in-fact for the Association. The policies shall contain:

A. A standard noncontributory Security Interest Holder's clause in favor of each holder of a First Security Interest, and shall provide that it cannot be cancelled or materially altered by either the insured or the insurance company until thirty (30) days' prior written notice is given to the insured and each Eligible Mortgagee.

B. Waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not under the control of the Association. Upon request, the Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question to any party in interest, including Security Interest Holders of First Security Interests.

Section 10.13. Insurance Proceeds : Any loss covered by the property insurance policy described in Section 10.2 above shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association, and not to any Security Interest Holder. The Association shall hold any insurance proceeds in trust for the Association, Owners and lienholders as their interests may appear. The proceeds must be disbursed first for the repair or restoration of the damaged property, and the Owners, Association and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored. If hazard insurance proceeds are distributed to the Owners, the distribution shall be as the parties with interests and rights are determined or allocated by record, and pursuant to the Act. The Association may designate a Trustee for the receipt, administration and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses and other sources.

Section 10.14. Damage to Property : Any portion of the Common Interest Community for which insurance is required by this Declaration or for which insurance carried by the Association is in effect, whichever is more extensive, that is damaged or destroyed, shall be repaired or replaced by the Association in accordance with C. R. S. 38-33.3-313(9), as if the Association was subject to the provisions of the Colorado Common Interest Ownership Act.

ARTICLE XI EASEMENTS AND LICENSES

Section 11.1. Easements and Licenses : Easements or licenses to which the Lots and the Common Interest Community are presently subject are recited in this Declaration, Exhibit "B" to this Declaration, and on the Plat. In addition, the Common Interest Community may be subject to other easements or licenses granted by the Declarant pursuant to its powers under Article V of this Declaration.

Section 11.2. Easements for the Board of Directors : Each Lot shall be subject to an easement in favor of the Board of Directors (including its agents, employees and contractors) to perform its obligations pursuant to this Declaration.

Section 11.3. Declarant's Easements : Anything to the contrary herein notwithstanding, the Declarant hereby reserves for itself, and for agents, employees, business invitees, successors or assigns, reasonable easements and rights-of-ways over all Lots for the sole purpose of constructing improvements to the Common Interest Community and making repairs pursuant to contracts of sale made with purchasers of Lots, but only if access thereto is otherwise not reasonably available. Such easements and rights-of-way, however, shall not unreasonably inhibit the use of Lots by Owners and Guests. The Declarant shall be fully responsible for any damage to Lots caused by its use of such easements and rights-of-way. Such reservations shall terminate at the option of the Declarant by its written notice to the Secretary of the Board of Directors, but in any event such reservations shall terminate without further act or deed not later than the completion of all of the Initial Improvements.

Section 11.4. Fire Protection Easements : A nonexclusive easement for ingress and egress is hereby granted to all



fire protection agencies or persons, now or hereafter servicing the Property, to enter upon any part of the Common Interest Community in the performance of their emergency duties.

Section 11.5. Easements for Drainage, Fire Fighting Facilities, Recreation and Utilities : Easements for the installation, use, and maintenance of utilities, drainage, fire fighting facilities, recreational facilities, Association, public or private improvements and access thereto are reserved as shown on the recorded plats and other documents affecting the Lots and any amendments to such plats and documents or as established by any other instrument of record. Utility companies are reserved access rights along established driveways to access their utility easements for purposes of maintenance, repair, upgrade, or installation. No Improvements shall be placed or permitted to remain on any Lot nor shall any change in grading be permitted to exist which may change the direction of flow or obstruct or retard the flow of water through channels or swales within such front, rear and side yard drainage easements. Declarant reserves to itself and to the Association the right to enter in and upon each Lot at any time to inspect and measure drainage, water and septic facilities, to construct, repair, replace or change drainage structures or to perform such grading, drainage or corrective work as Declarant or the Association may deem necessary or desirable in their sole discretion from time to time.

Section 11.6. Easements Deemed Created : All conveyances of any Lot hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article even though no specific reference to such easements or to this Article appears in the instrument of such conveyance.

**ARTICLE XII
DURATION, ANNEXATION, AMENDMENTS AND MERGER**

Section 12.1. Duration: This Declaration shall run with and bind the land perpetually, unless terminated as set forth in Article XIII below.

Section 12.2. Declarant Amendments: Declarant declares and reserves the right to amend without the consent of Owners this Declaration, or the Plat, Articles of Incorporation or Bylaws, any time within fifteen (15) years from the date this Declaration is recorded, or before Declarant conveys the last Lot to a purchaser other than Declarant or a successor Declarant, whichever first occurs, as follows:

- (A) To make nonmaterial changes, such as the correction of a technical, clerical, grammatical or typographical error or clarification of a statement.
- (B) To comply with any requirements of the Act or amendments thereto, or any of the Agencies or to induce any of the Agencies to make, purchase, sell, insure or guarantee First Security Interests.

Section 12.3. Owner Amendment: The Owners may amend the covenants and restrictions of this Declaration at any time upon a vote of no less than 67% of the Owners.

Section 12.4. Mergers : The Common Interest Community may be merged or consolidated with another Common Interest Community of the same form of ownership.

Section 12.5. Recordation of Amendments : Each amendment to the Declaration must be recorded in the offices of the Clerk and Recorder of Lake County, Colorado.

Section 12.6. Special Declarant Rights : Provisions in this Declaration creating Special Declarant Rights may not be amended without the consent of the Declarant.

Section 12.7. Consent of Holders of Security Interests : Amendments are subject to the consent requirements of Article XIV.

Section 12.8. Expenses : All expenses associated with preparing and recording an amendment shall be allocated in accordance with Section 38-33.3-217(6) of the Act.

ARTICLE XIII
TERMINATION

The Common Interest Community may be terminated only upon agreement of the Board of County Commissioners of Lake County, Colorado and Owners to which at least sixty-seven percent (67%) of the votes are allocated. An agreement of Owners to terminate must be evidenced by their execution of a termination agreement or ratifications thereof in the same manner as a deed. The termination agreement must specify a date after which the agreement will be void unless it is recorded before that date. If, pursuant to the agreement, any real estate in the Common Interest Community is to be sold following termination, the termination agreement must set forth the minimum terms of sale. Proceeds of sale must be distributed to Owners and lienholders as their interests may appear, taking into account the value of property owned or distributed that is not sold so as to preserve the proportionate interests of each Owner with respect to all property cumulatively.

ARTICLE XIV
SECURITY INTEREST PROTECTION

Section 14.1. Purpose : This Article establishes certain standards and covenants for the benefit of the holders, insurers and guarantors of certain Security Interests. This Article is supplemental to, not a substitution for, any other provisions of the Documents, but in the case of conflict, this Article shall control.

Section 14.2. Percentage of Eligible Mortgagees : Wherever in this Declaration the approval or consent of a specified percentage of Eligible Mortgagees is required, it shall mean that the approval or consent of Eligible Mortgagees holding Security Interests in Lots which in the aggregate have allocated to them that specified percentage of votes as compared to the total votes allocated to all Lots in the Association then subject to Security Interests held by all Eligible Mortgagees.

Section 14.3. Notice of Actions : Upon written request to the Association, identifying the name and address of the Eligible Mortgagee or insurer or guarantor of the First Security Interest and the residence address of the property which is subject to such First Security Interest, the Association shall give prompt written notice to each Eligible Mortgagee of:

- A. Any material condemnation loss or casualty loss which affects a material portion of the Common Interest Community or any Lot in which there is a first Security Interest held, insured or guaranteed by that Eligible Mortgagee;
- B. Any delinquency in the payment of Common Expense assessments owed by an Owner which remains uncured for a period of sixty (60) days and whose Lot is subject to a first Security Interest held, insured or guaranteed by that Eligible Mortgagee;
- C. Any lapse, cancellation or material modification of any mandatory insurance policy or fidelity bond maintained by the Association;
- D. Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 14.4 of this Declaration; and
- E. Any material judgment rendered against the Association.

Section 14.4. Consent and Notice Required :

- A. Declaration Changes. Notwithstanding any requirement permitted by this Declaration or the Act, no amendment of any material provision by the Association or Owners described in this Section may be effective without notice to all Eligible Mortgagees, as required by Section 14.3 above, without the vote of at least sixty-seven percent (67%) of the votes entitled to be cast by Owners (or any greater Owner vote required in this Declaration or the Act) and without approval by at least fifty-one percent (51%) of the



Eligible Mortgagees. The foregoing approval requirements do not apply to amendments effected by the exercise of any Special Declarant Right. A change to any of the following would be considered material (unless they are for the purpose of correcting technical errors or for clarification only):

- (i) Voting rights;
- (ii) Assessments, assessment liens or subordination of assessment liens;
- (iii) Reserves for maintenance, repair and replacement of Common Elements;
- (iv) Responsibility for maintenance and repairs;
- (v) Rights to use the Common Elements;
- (vi) Convertability of Lots into Common Elements or Common Elements into Lots; or boundaries of any Lots;
- (vii) Expansion or contraction of the Common Interest Community, or the addition, annexation or withdrawal of property to or from the Common Interest Community;
- (viii) Insurance or fidelity bonds;
- (ix) Leasing of Lots;
- (x) Imposition of any restrictions on Owners' right to sell or transfer their Lots;
- (xi) A decision by the Association to establish self management when professional management had been required previously by the Declaration or any Eligible Mortgagee;
- (xii) Restoration or repair of the project after hazard damage or partial condemnation in a manner other than that specified in the Declaration;
- (xiii) Termination of the Common Interest Community after occurrence of substantial destruction or condemnation; and
- (xiv) Any provision for the express benefit of First Security Interest holders, insurers or guarantors.

B. Actions. Notwithstanding any lower requirement permitted by this Declaration or the Act, the Association may not take any of the following actions, other than rights reserved to the Declarant as Special Declarant Rights, without notice to all Eligible Mortgagees, as required by Section 14.4 above, and approval of at least fifty-one percent (51%) of the Eligible Mortgagees:

- (i) Convey or encumber the Common Elements or any portion of the Common Elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Common Interest Community will not be deemed a transfer within the meaning of this clause.
- (ii) The termination of the Common Interest Community for reasons other than substantial destruction or condemnation.
- (iii) The alteration of any partition or creation of any aperture between adjoining Lots (when Lot boundaries are not otherwise being affected), for which only the owners of Lots affected and Eligible Mortgagees of those Lots need approve the action.



- (iv) The granting of any easements, leases, licenses or concessions through or over the Common Elements (excluding, however, any utility easements serving or to serve the Common Interest Community and also excluding any leases, licenses or concessions lasting for no more than one year).
- (v) The restoration or repair of the Property after hazard damage or a partial condemnation in a manner other than specified in this Declaration.
- (vi) The merger of the Common Interest Community with any other common interest community.
- (vii) The assignment of the future income of the Association, including its right to receive Common Expense Assessments.
- (viii) Any action taken not to repair or replace the Property in the event of substantial destruction of any part of a Lot or the Common Elements.
- (vix) Change the period for collection of regularly budgeted Common Expense Assessments.

C. The failure of an Eligible Mortgagee or Insurer to respond within thirty (30) days to any written request for approval of an addition or amendment to the Declaration wherever Eligible Mortgagee or Insurer approval is required, when such request is delivered by certified or registered mail, return receipt requested, shall constitute an implied approval of the addition or amendment.

Section 14.5. Inspection of Books : The Association must maintain current copies of the Declaration, Bylaws, Rules, books, records and financial statements. The Association shall permit any Eligible Mortgagee to inspect the books and records of the Association by appointment during normal business hours.

Section 14.6. Financial Statements : The Association shall provide any Eligible Mortgagee who submits a written request with a copy of an annual financial statement. It shall be provided within ninety (90) days following the end of each fiscal year of the Association. This financial statement shall be audited by an independent certified public accountant if any Eligible Mortgagee requests it, in which case the Eligible Mortgagee shall bear the cost of the audit.

Section 14.7. Enforcement : The provisions of this Article are for the benefit of Eligible Mortgagees and their successors and may be enforced by any of them by any available means, at law or in equity.

Section 14.8. Attendance at Meetings : Any representative of an Eligible Mortgagee may attend and address any meeting which an Owner may attend and address.

Section 14.9. Appointment of Trustee : In the event of damage or destruction under Article X or condemnation of all or a portion of the Common Interest Community, any Eligible Mortgagee may require that such proceeds be payable to a Trustee. This Trustee may be required to be a corporate trustee licensed by the State of Colorado. Proceeds will then be distributed pursuant to Article X or pursuant to a condemnation award. Unless otherwise required, the members of the Board of Directors, acting by majority vote through the president, may act as Trustee.

**ARTICLE XV
RIGHT TO ASSIGN FUTURE INCOME**

The Association may assign its future income, including its right to receive Common Expense Assessments, only by the affirmative vote of Owners of Lots to which at least fifty-one percent (51%) of the votes in the Association are allocated, at a meeting called for that purpose, and with Eligible Mortgagee consent.

ARTICLE XVI



CONDEMNATION

If part or all of the Common Interest Community is taken by eminent domain or part of a Lot is taken by eminent domain leaving the Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award must include compensation to the Owner for that unit and its allocated interests whether or not any common elements are acquired. Upon acquisition, unless the decree otherwise provides, that Lot's allocated interests are automatically reallocated to the remaining Lots in proportion to the respective allocated interests of those Lots before the taking. Any remnant of a Lot remaining after part of a Lot is taken is thereafter a common element. If part of the Common Elements is acquired by eminent domain, that portion of any award attributable to the Common Elements taken must be paid to the association.

ARTICLE XVII MISCELLANEOUS

Section 17.1. Captions : The captions contained in the Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Documents or the intent of any provision thereof.

Section 17.2. Gender : The use of the masculine gender refers to the feminine gender, and vice versa, and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so require.

Section 17.3. Waiver : No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 17.4. Invalidity : The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability or effect of the remainder, and if a provision is invalid, all of the other provisions of the Documents shall continue in full force and effect.

Section 17.5. Conflict : The Documents are intended to comply with the requirements of the Colorado Nonprofit Corporation Act. If there is any conflict between the Documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between any section or phrase of this Declaration and any other Document, this Declaration shall control.

Section 17.6. Severability : All provisions of the Documents of the Association are severable. Invalidation of any of the provisions of any such documents, by judgment, court order or otherwise, shall in no way affect or limit any other provisions which shall remain in full force and effect.

Section 17.7. Registration of Mailing Address : Each Owner and Eligible Mortgagee shall, and each Security Interest Holder, insurer or guarantor of a Security Interest may register their mailing address with the Association, and except for assessment statements and other routing notices, all other notices or demands intended to be served upon an Owner, or upon a Security Interest Holder, insurer or guarantor of a Security Interest, shall be either delivered to them or sent by first class mail, postage prepaid, addressed in the name of such person or entity at such registered mailing address. However, if any Owner fails to notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Lot. All notices, demands, or other notices intended to be served upon the Board or the Association shall be sent by registered or certified mail, postage prepaid, to the Association's Manager or Registered Agent.

Section 17.8. Enforcement : Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws, Design Guidelines, or Rules of the Association, as amended, may be by any proceeding at law or in equity against any person or persons (including, without limitation, the Association) violating or attempting to violate any such provision. The Association and any aggrieved Owner shall have the right to institute, maintain and prosecute any such proceedings, and the Association shall further have the right to levy and collect fines and enforce other established penalties for the violation of any provision of any of the aforesaid documents. In any action instituted or maintained for enforcement, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees



incurred pursuant thereto, as well as any and all other sums awarded by the Court. Failure by the Association or any Owner to enforce any covenant, restriction or other provision herein contained, or any other provision of any of the aforesaid documents, shall in no event be deemed a waiver of the right to do so thereafter.

Section 17.9. Indemnification : To the fullest extent permitted by Colorado law, the Association shall indemnify every present and former Director, Officer, committee member, agent or employee against loss, costs, and expense, including attorneys' fees reasonably incurred in connection with any action, suit, or proceeding in which such person may be made a party by reason of being, or having been such Director, Officer, committee member, agent or employee of the Association. Any such indemnification may be limited to and paid out of the insurance proceeds provided by an insurer furnishing Officers and Directors Errors and Omissions insurance coverage or similar protection and any other insurance protecting the Association from liability because of the negligent acts of its servants, including insurance covering motor vehicles or public liability, property damage, medical and other similar coverage. In the event of an insurance settlement, the settlement shall be approved by the Board of Directors and paid for by the insurance carrier out of the insurance proceeds.

Section 17.10. HUD or VA Approval : During the Period of Declarant Control, the following actions shall require the prior approval of HUD or VA if, at the time any such action is taken, HUD has insurance or VA has a guarantee(s) on one or more Security Interests: amendment of this Declaration; annexation of property to this Declaration; termination of the Common Interest Community; or merger or consolidation of the Association.

[SIGNATURE PAGE FOLLOWS]



The Declarant has caused this Declaration to be executed this 17 day of August, 2007

DECLARANT:

ARKANSAS VALLEY COMPANY, L.L.C.

William P. Klauber
 William P. Klauber, Member

Robert D. Klauber
 Robert D. Klauber, Member

Paul R. Klauber
 Paul R. Klauber, Member

STATE OF COLORADO)
COUNTY OF LAKE)

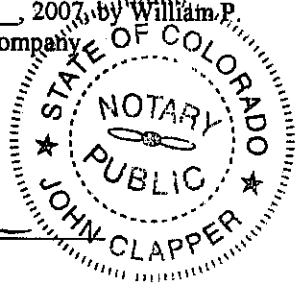
The foregoing instrument was acknowledged before me this 17 day of August, 2007, by William P. Klauber, as Member of Arkansas Valley Company, L.L.C., a Colorado limited liability company

Witness my hand and official seal.

[SEAL]

My commission expires: 6/29/11

John Clapper
Notary Public



STATE OF Colorado)
COUNTY OF Lake)

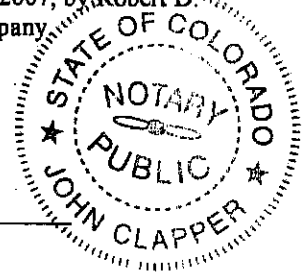
The foregoing instrument was acknowledged before me this 17 day of August, 2007, by Robert D. Klauber, as Member of Arkansas Valley Company, L.L.C., a Colorado limited liability company

Witness my hand and official seal.

[SEAL]

My commission expires: 6/29/11

John Clapper
Notary Public



STATE OF Missouri)
COUNTY OF St. Louis)

The foregoing instrument was acknowledged before me this 17th day of August, 2007, by Paul R. Klauber, as Member of Arkansas Valley Company, L.L.C., a Colorado limited liability company.

Witness my hand and official seal.

[SEAL]

My commission expires: 10-15-2010

Eric Horn
Notary Public





EXHIBIT "A"
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR ELK TRAIL

LEGAL DESCRIPTION
OF THE
COMMON INTEREST COMMUNITY

A tract of land, being a portion of the Laura and Daisy Placer, U.S. Mineral Entry No. 949 and the Albert A. Blow Placer, U.S. Mineral Entry No. 361 lying Northerly of Lake County Road No. 4 (previously known as Lake County Road No. 19) situate in the NE¼ SW¼ and the E½ NW¼ SW¼ of Section 21, Township 9 South, Range 80 West of the 6th P.M., County of Lake and State of Colorado more particularly described as follows:

Beginning at the Center ¼ Corner of aforesaid Section 21, a brass cap in place;

thence S. 02° 27' 41" E. along the North-South center line of said Section 21, 970.73 feet to a point of intersection with the Northerly right of way line of aforesaid Lake County Road No. 4, an aluminum cap in place;

thence S. 71° 15' 14" W. along said right of way 630.80 feet to a point of curve, an aluminum cap in place;

thence continuing along said right of way on a curved line to the right, having a delta angle of 12° 54' 07", a radius of 1489.67 feet, an arc length of 335.45 feet, and a long chord of 334.74 feet which bears S. 77° 42' 17.5" W. to a point of tangent, an aluminum cap in place;

thence S. 84° 09' 21" W. continuing along said right of way 461.84 feet to a point of curve, an aluminum cap in place;

thence continuing along said right of way on a curved line to the right, having a delta angle of 31° 02' 49", a radius of 806.86 feet, an arc length of 437.21 feet, and a long chord of 431.89 feet which bears N. 80° 19' 14.6" W. to a point of reverse curve, an aluminum cap in place;

thence continuing along said right of way on a curved line to the left, having a delta angle of 4° 12' 34", a radius of 1809.86 feet, an arc length of 132.97 feet, and a long chord of 132.94 feet which bears N. 66° 54' 06.8" W. to a point of intersection with the West line of aforesaid E½ NW¼ SW¼ of Section 21;

thence N. 00° 34' 17" W. along said West line, 1185.81 feet to the C-W-W 1/64 Corner of said Section 21, a brass cap in place;

thence S. 89° 24' 28" E. along the East-West center line of said Section 21, 634.03 feet to the C-W 1/16 Corner of said Section 21, and 1902.086 feet to the point of beginning.

Bearings are referred to Astronomic North.

The above tract of land is subject to all rights of way and easements of record and existing on the ground including, but not limited to railroad rights of way, ditches, canals, rivers and existing county roads.

EXCEPTING THEREFROM: That portion of the above property described as Tract F on the Elk Trail Final Plat recorded June 18, 2007 at Reception No. 346460 of the records of the Lake County Clerk and Recorder. (Tract F is not governed by or subject to this Declaration of Covenants, Conditions and Restrictions for Elk Trail.)



EXHIBIT "B"
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR ELK TRAIL

EASEMENTS AND LICENSES
BURDENING THE PROPERTY

1. Reservation of right of proprietor of any penetrating vein or lode to extract his ore, as set forth in U.S. Patents for the Albert A. Blow Placer, M.E. No. 361, recorded in Book B of Patents at Page 177 of the records of the Lake County Clerk and Recorder and the Laura and Daisy Placer, M.E. No. 949, recorded in Book B of Patents, at Page 574 of the records of the Lake County Clerk and Recorder.
2. Inclusion within the Lake County Soil Conservation District, as evidenced by that instrument recorded February 25, 1950 at Book 308 at Page 211 of the records of the Lake County Clerk and Recorder.
3. Right of Way for County Road across a portion of Section 21, Township 9 South, Range 80 West of the 6th P.M., as conveyed by Quit Claim Deed recorded April 21, 1958 in Book 331 at Page 311 of the records of the Lake County Clerk and Recorder.
4. Reservation for "all rights of way and easements of record and existing on the ground including, but not limited to railroad rights of way, ditches, canals, rivers and existing county roads" set forth in deed recorded on February 9, 1988 at Book 484, Page 617 of the records of the Lake County Clerk and Recorder.