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# **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

## **FOR**

## **BEAR'S DEN**

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**FOR**

**BEAR'S DEN**

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# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

## FOR

## BEAR'S DEN

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BEAR'S DEN (this "Declaration") dated \_\_\_\_\_, 2006, shall be effective upon recordation and is made by **COLORADO AG PROPERTIES**, a Colorado limited partnership ("Colorado Ag"), **THOMAS B. RIEBER** and **ERICA M. RIEBER**, individuals ("Riebers"), **JOHN SHOOK** and **EMILY SHOOK**, individuals ("Shooks"), and **WILLIAM M. THOMAS** and **KAREN J. THOMAS** ("Thomas") Colorado Ag, Riebers, Shooks and Thomas' shall be referred to collectively herein as "Declarant". Declarant is the owner of certain real property in Douglas County, Colorado, more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Property"). Declarant hereby makes the following grants, submissions, and declarations:

### ARTICLE I IMPOSITION OF COVENANTS

Section 1.1 Purpose. The purpose of this Declaration is to create a residential community known as Bear's Den (the "Project") by submitting the Property to the "planned community" form of ownership and use pursuant to the Colorado Common Interest Ownership Act (the "Act").

Section 1.2 Intention of Declarant. Declarant desires to protect the value and desirability of the Project, to further a plan for the improvement, sale, and planned community ownership of the Project, to create a harmonious and attractive development, and to promote and safeguard the health, comfort, safety, convenience, and welfare of all Owners in the Project.

Section 1.3 Declaration. To accomplish the purposes and intentions recited above, Declarant hereby submits the Property, together with all improvements, appurtenances, and facilities relating to or located on the Property now and in the future, to Planned Community ownership under the Act, and hereby imposes upon all of the Property the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions of this Declaration, and Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, leased, rented, occupied, and improved, subject to the provisions of this Declaration.

Section 1.4 Covenants Running With the Land. All provisions of this Declaration shall be deemed to be covenants running with the land, or as equitable servitudes, as the case may be. The benefits, burdens, and other provisions contained in this Declaration shall be binding upon and shall inure to the benefit of Declarant, all Owners, and their respective heirs, executors, administrators, personal representatives, successors, and assigns.

## ARTICLE II DEFINITIONS

The following words, when used in this Declaration shall have the meaning designated below unless the context expressly requires otherwise:

Section 2.1 "Act" means the Colorado Common Interest Ownership Act codified as amended at C.R.S. Section 38-33.3-101 *et seq.* In the event the Act is repealed, the Act, on the effective date of this Declaration shall remain applicable to this Declaration.

Section 2.2 "Administrative Functions" means all functions of the Association as are necessary and proper under this Declaration and the Act and shall include, without limitation, providing management and administration of the Association; providing architectural review services; incurring reasonable attorneys' fees and accountants' fees; obtaining errors and omissions insurance for "Officers," "Directors" (hereafter defined), and agents of the Association; obtaining fidelity bonds for anyone handling funds of the Association; paying taxes levied against the Common Elements; incurring filing fees, recording costs, and bookkeeping fees; obtaining and maintaining offices and office furniture and equipment; and performing such other reasonable and ordinary administration tasks associated with operating the Association.

Section 2.3 "Allocated Interests" means the Common Expense Liability and the votes in the Association allocated to each of the Parcels in the Project. The Allocated Interests for each Parcel are as established in Section 4.2 below.

Section 2.4 "Ancillary Unit" means any detached structure located within the Building Envelope of a Parcel and incidental to the Residence that has been constructed thereon. An Ancillary Unit may not be occupied as a home but may be used as a detached garage or accessory building, a pool house, restrooms, a studio, or a workshop. An Ancillary Unit shall conform to the architectural character and colors of the Improvement on the Parcel occupied as a home and meet the requirements set forth in the Architectural Standards.

Section 2.5 "Architectural Standards" means the Bear's Den Planning and Architectural Standards from time to time established by the Planning Architectural Control Committee to interpret and implement the provisions of Article III hereof.

Section 2.6 "Articles of Incorporation" means the Articles of Incorporation of Bear's Den Homeowners Association, Inc., as the same may be amended from time to time, that have been filed in the office of the Secretary of State of the State of Colorado.

Section 2.7 "Assessment" means all assessments for Common Expenses levied against a Parcel pursuant to this Declaration or the Act.

Section 2.8 "Association" means the Bear's Den Association, Inc., a Colorado nonprofit corporation, and its successors and assigns.



Section 2.9 “Board of Directors” or “Board” means the governing body of the Association, as provided in this Declaration and in the Articles of Incorporation and Bylaws of the Association and in the Act.

Section 2.10 “Budget” means a written, itemized estimate of the income to be derived and the expenses to be incurred by the Association on an annual basis in performing its functions under this Declaration and prepared pursuant to Article VII of this Declaration.

Section 2.11 “Building Envelope” means the portion of each Parcel shown on the Survey as a Building Envelope and where certain improvements are permitted in accordance with the notes shown on the Survey.

Section 2.12 “Bylaws” means any instruments, however denominated, which are adopted by the Board for the regulation management of the Association, including any amendments thereto.

Section 2.13 “Committee” means the Planning and Architectural Control Committee created pursuant to Article III hereof.

Section 2.14 “Common Assessment” means the annual assessment levied against each Parcel pursuant to the Budget for the purpose of paying the annual costs of operating the Association, including expenses incurred by the Association in connection with the performance of any Administrative Functions. Common Assessments shall be levied on all Parcels in accordance with the provisions of Article VII below.

Section 2.15 “Common Elements” means the real estate and personal property owned by the Association, including, but not limited to, Bear’s Den Drive, Bear’s Den Court and Bear’s Den Trail, and all easements granted to the Association.

Section 2.16 “Common Expense Liability” means the liability for Common Expenses allocated to each Parcel pursuant to this Declaration.

Section 2.17 “Common Expenses” means expenditures made or liabilities incurred by or on behalf of the Association for the general benefit of all Owners, together with any allocations to reserves, as the Board may find necessary and appropriate pursuant to the Project Documents, including, without limiting the generality of the foregoing, the following items:

- (a) expenses of administration, insurance, operation, and management, repair, or replacement of the Common Elements except to the extent such repairs and replacements are responsibilities of an Owner as provided in this Declaration;
- (b) expenses declared Common Expenses by the provisions of the Act, this Declaration or the Bylaws;

(c) all sums lawfully assessed against the Parcels by the Board of Directors or any government entity;

(d) expenses agreed upon as Common Expenses by the members of the Association; and

(e) expenses provided to be paid pursuant to any Management Agreement.

Common Expenses shall not include any expenses incurred during the Period of Declarant Control for initial development or other original construction costs unless approved by Owners representing a majority of the total votes of the Association, excluding votes held by Declarant.

Section 2.18 "Costs of Enforcement" means all monetary fees, fines, late charges, interest, expenses, costs, including receiver's and appraiser's fees, and reasonable attorneys' fees and disbursements, including legal assistants' fees, incurred by the Association or Declarant in connection with the collection of annual, special, and default Assessments or in connection with the enforcement of the terms, conditions and obligations of the Project Documents.

Section 2.19 "County" means Douglas County, Colorado.

Section 2.20 "Declarant" means Colorado Ag Properties LP, a Colorado limited partnership, together with any Person to which any or all of the rights of Declarant may expressly be transferred in accordance with the requirements of the Act, including its successors and assigns. A Person shall be deemed to be a "successor and assign" of Declarant, only if specifically designated as a successor or assign of Declarant under this Declaration in an instrument recorded in the Records and shall be deemed a successor and assign of Declarant only as to the particular rights or interests of Declarant under this Declaration that are specifically designated in the written instrument.

Section 2.21 "Declaration" means this Declaration, together with any supplement or amendment to this Declaration, and any other recorded instrument however denominated which exercises a Development Right, executed by Declarant and recorded in the Records. The term Declaration includes the Survey and any other plat recorded with this Declaration without specific reference thereto, if any.

Section 2.22 "Development Rights" means those rights set forth in Article XI of this Declaration and all "development rights" set forth in Section 103(14) of the Act.

Section 2.23 "Directors" means the members of the Board of Directors.

Section 2.24 "Easements and Licenses" means those easements and licenses appurtenant to, or included in, the Project or to which any portion of the Project is or may become subject by a reservation in this Declaration and as set forth in **Exhibit B** attached hereto and incorporated herein.

Section 2.25 "Eligible First Mortgagee" means a First Mortgagee which has notified the Association in writing of its name and address and status as a First Mortgagee and has requested that it receive notices provided for in the Article XII below.

Section 2.26 "First Mortgagee" means a holder of a first lien Security Interest on a Parcel.

Section 2.27 "Improvements" means all construction, installation, and expansion of structures and improvements located upon or made to a Parcel and any appurtenances thereto of every type or kind including, but not limited to, Residences, Ancillary Units, swimming pools, patio covers, awnings, the painting of any exterior surfaces of any visible structure, roofing, trash containers, mail boxes, satellite dishes, additions, walkways, screen or storm doors, outdoor sculptures or artwork, sprinkler pipes, garages, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, fixtures, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior tanks, individual sewage disposal systems, solar equipment, grading, filling, or similar disturbance to the surface of the land, and exterior air conditioning.

Section 2.28 "Limited Common Elements" means those parts of the Common Elements which are limited to and reserved for use in connection with one or more, but fewer than all, of the Parcels. Limited Common Elements shall include all roads and driveways constructed on the Road Tracts granted to the Association. All such road and driveway Limited Common Elements shall be appurtenant to the Parcel(s) to which they provide access as designated by this Declaration or on the Survey. Limited Common Elements shall also include any part of the Common Elements designated by this Declaration or on the Survey as a Limited Common Element appurtenant to one or more Parcels.

Section 2.29 "Managing Agent" means a person, firm, corporation, or other entity employed or engaged as an independent contractor pursuant to a Management Agreement to perform management services for the Association.

Section 2.30 "Management Agreement" means any contract or arrangement entered into for purposes of discharging the responsibilities of the Board of Directors relative to the operation of the Project and Association.

Section 2.31 "Open Space" means the area of each Parcel that is not contained within the Building Envelope and that is subject to the restrictions as set forth in the notes on the Survey.

Section 2.32 "Occupant" means the Owner, any member of an Owner's family or Owner's guests, invitees, servants, tenants, employees, or licensees who occupies a Parcel or is on the Common Elements for any period of time.

Section 2.33 "Owner" means the Declarant or any other person who owns record title to a Parcel (including a contract seller, but excluding a contract purchaser) but excluding any person having a Security Interest in a Parcel unless such person has acquired record title to the Parcel pursuant to foreclosure or any proceedings in lieu of foreclosure.

Section 2.34 "Parcel" means any Parcel shown on the Survey in which a physical portion of the Project is designated for separate ownership or occupancy. The boundaries of each Parcel are described in or determined by this Declaration and its exhibits. Each Parcel shall be designated by a separate number, letter, address or other symbol or combination thereof that identifies only one Parcel in the Project as more specifically set forth on the Survey. For the purposes of conforming the terms and provisions of this Declaration to the terms and provisions of the Act, the term "Parcel" shall be analogous to the term "Unit" as that term is defined in the Act. The term Parcel shall not include any property owned by a public body or the Common Elements.

Section 2.35 "Period of Declarant Control" means the maximum of time defined and limited by the Act and Section 5.6 of this Declaration which the Declarant may, at its option, control the Association.

Section 2.36 "Person" means a natural person, a corporation, a partnership, a limited liability company, or any other entity permitted to hold title to real property pursuant to Colorado law.

Section 2.37 "Project" means Bear's Den, a "planned community" as defined in Section 103(22) of the Act.

Section 2.38 "Project Documents" means the basic documents creating and governing the Project, including, but not limited to, this Declaration, the Articles of Incorporation and Bylaws of the Association, and any procedures, rules and regulations, or policies relating to the Project adopted under such documents by the Association or the Board of Directors.

Section 2.39 "Property" means the real property described in the attached **Exhibit A**.

Section 2.40 "Purchaser" means a person other than a Declarant, who by means of a transfer acquires a legal or equitable title in a Parcel, other than a leasehold estate in a Parcel of less than 40 years or a Security Interest.

Section 2.41 "Real Estate" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that, by custom, usage, or law, pass with the conveyance of land though not described in the contract of sale or instrument of conveyance. Real Estate includes Parcels with or without horizontal boundaries and spaces that may be filled with air or water.

Section 2.42 "Records" means the documentation and recordings of the Office of the Clerk and Recorder in Douglas County, Colorado.

Section 2.43 "Reimbursement Assessment" means a charge against a particular Owner and such Owner's Parcel for the purpose of reimbursing the Association for expenditures and other costs and expenses incurred by the Association that arise from or are related to any actions or violation of the Project Documents by an Owner, together with late charges and interest thereon as more fully provided for herein.

Section 2.44 "Residence" means the house constructed on a Parcel for occupancy as home.

Section 2.45 "Rules and Regulations" means the rules, and regulations promulgated by the Board of Directors for the management, preservation, safety, control, and orderly operation of the Project in order to effectuate the intent and to enforce the obligations set forth in the Project Documents, as amended and supplemented from time to time.

Section 2.46 "Security Interest" means 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.

Section 2.47 "Special Assessment" means a charge against each Owner and such Owner's Parcel representing a portion of the costs of the Association for the purpose of defraying, in whole or in part, payments for any operating deficit, loss or unbudgeted expense, and/or unbudgeted costs, fees, and expenses of any construction, reconstruction, repair, demolition, replacement, management, administration, or maintenance of the Common Elements.

Section 2.48 "Special Declarant Rights" means those rights reserved by Declarant in Article X of this Declaration.

Section 2.49 "Supplemental Declaration" means a written instrument, containing covenants, conditions, restrictions, reservations, easements or equitable servitudes, or any combination thereof that is recorded in the Records in conjunction with the annexation of additional real property or other change to the Project.

Section 2.50 "Supplemental Plat" means and includes any land survey plat or supplement to the Survey recorded in the Records by Declarant for the purpose of annexing the real estate described thereon to the Project.

Section 2.51 "Survey" means the Bear's Den Rural Site Plan, which documents serves as the equivalent of a land survey plat of the Property and conforms to all of the plat requirements of a common interest community as set forth in the Act.

### ARTICLE III ARCHITECTURAL CONTROL

Section 3.1 Planning and Architectural Control Committee. The Planning and Architectural Control Committee ("Committee") shall consist of at least three members designated by Declarant during the Period of Declarant Control of the Association and thereafter by the Board, to review, study and approve or reject proposed improvements on any Parcel in the Project. The primary document governing the design and development of all improvements shall be the Bear's Den Planning and Architectural Standards and Rules and Regulations ("Architectural Standards") although this Declaration contains additional regulations pertaining to the use and development of each Parcel. The members of the Committee need not be Owners. The Committee shall have power to enforce the provisions of this Declaration to make such rules and regulations and adopt such procedures as it may deem appropriate to govern its proceedings and effect its function.

Section 3.2 Architectural Control. The Committee shall review, study and approve or reject proposed improvements upon Owners subject to the covenants and restrictions of this Section 3.2.

(a) Approval Required. No building or structure of any kind shall be commenced, erected or maintained upon the Parcels, nor shall any exterior addition to or change or alteration thereto be made, nor shall any vegetation be altered or destroyed, nor any landscaping performed until satisfactory and complete plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures, topography, and overall environment, by the Committee. Approval by the Committee is in addition to and not in lieu of compliance with the building code and all other applicable requirements of the County or any other appropriate government entity. Notwithstanding the foregoing, the approval of the Committee shall not be required for the following: (i) for any Improvement to the Property made by Declarant; (ii) where, in the reasonable discretion of the Board, approval is not required to carry out the purposes of this Declaration; (iii) where prior approval of Improvements may be waived or certain Improvements may be exempted in writing or under written guidelines or rules promulgated by the Committee; and (iv) for any Improvement made to the Common Elements by the Association.

(b) General Criteria. In passing upon such plans and specifications, it shall be the objective of the Committee to make certain that no Improvements will impair the aesthetic and monetary values of the Project. The Committee shall consider all factors relating to the quality of the Improvements and the compatibility and harmony of the Improvements with the environment, including, but not limited to, the location of the

Improvements on the Parcels and the color scheme, materials, design, portions, shape, height and style of the Improvements; the effect of any proposed Improvement on adjacent or neighboring property; the location and character and method of utilization of all utility lines; the impact of any proposed Improvement upon the natural surroundings; and the timely and orderly completion of all such Improvements.

(c) Powers of the Committee. The Committee shall have the authority to require each Owner to hire duly licensed architectural and professional engineering advisors to develop and coordinate plans and specifications for the construction of Improvements and landscaping of a Parcel. The Committee shall have the authority to prevent an Owner from occupying or allowing occupancy of any Improvement on the Parcel until all requirements of the Architectural Standards have been satisfied. In addition, the Committee shall be entitled to charge a reasonable review fee and to require an Owner to pay for the cost of any consulting fees paid to an architect or engineer by the Committee to evaluate the Owner's plan.

(d) Architectural Standards. The Committee shall promulgate rules and regulations to interpret and implement the provision of this Article. These rules and regulations shall be known as the "Architectural Standards" and shall contain, among other things, the following:

(1) The detailed review procedures an Owner is to follow when submitting plans and specifications to the Committee for approval.

(2) Guidelines which will clarify the types of designs and materials that will be considered in compliance with the Architectural Standards.

(3) A limited variance procedure requiring at least two-thirds vote of the Committee which may be used upon good cause shown by an Owner, and then only upon such terms and conditions as the Committee shall require in its discretion.

Section 3.3 Enforcement. If the Board determines that an Owner has not complied with the Architectural Standards or any approvals of the Committee, the Owner shall remedy or remove the same within a period of not more than 14 days from the date of receipt by the Owner of written notice from the Board or such longer period as the Board may prescribe in the written notice. If the Owner does not comply with the written notice, the Board may, at its option, record a Notice of Noncompliance against the real property on which the noncompliance exists, may, with a right of entry especially granted thereby, enter upon such property and remove the noncomplying Improvement, or may otherwise remedy the noncompliance, and the Owner shall reimburse the Association, upon demand, for all costs and expenses incurred by the Association in connection therewith including, but not limited to, attorneys' fees. If such expenses are not promptly repaid by the Owner to the Association, the Board may levy a Reimbursement Assessment against the Owner for such costs and expenses. The right of the Association to remedy or remove any noncompliance shall be in addition to all other rights and remedies that

the Association may have at law, in equity, or under this Declaration. The Owner shall have no claim for damages or otherwise on account of the entry upon the property and removal of the noncomplying Improvement.

Section 3.4 Records of Actions. The Committee shall report in writing to the Board all final actions of the Committee, and the Board shall keep a permanent record of such reported action.

Section 3.5 Estoppel Certificates. The Board shall, upon the reasonable request of any interested Person and after confirming any necessary facts with the Committee, furnish a certificate with respect to the approval or disapproval of any Improvement or with respect to whether any Improvement was made in compliance herewith. Any Person, without actual notice to the contrary, shall be entitled to rely on said certificate with respect to all matters set forth therein.

Section 3.6 Non-liability for Committee Action. There shall be no liability imposed on the Committee, any member of the Committee, any representative of the Committee, the Association, any Director, or Declarant for any loss, damage, cost, expense, or injury arising out of or in any way connected with the performance of the duties of the Committee. In reviewing any matter, the Committee shall not be responsible for reviewing, nor shall its approval of an Improvement be deemed approval of, the Improvement from the standpoint of safety, whether structural or otherwise, or such Improvement's conformance with building codes or other governmental laws or regulations.

#### ARTICLE IV ALLOCATED INTERESTS

Section 4.1 Allocation of Interests. The Allocated Interests appurtenant to each Parcel are established in accordance with the formulas set out in Section 4.2 below. These formulas are to be used in reallocating interests if Parcels are (a) added to the Project, (b) converted to Common Elements or Limited Common Elements, or (c) withdrawn from the Project.

Section 4.2 Formulas for the Allocation of Interests. The interests allocated to each Parcel have been calculated on the following formulas:

(a) Common Expenses Liability. The percentage of liability for Common Expenses allocated to each Parcel is based on the total number of Parcels. Each Parcel in the Project shall share the liability for Common Expenses equally.

(b) Votes. Each Parcel in the Project shall have one vote. Any specified percentage, portion or fraction of Owners, unless otherwise stated in the Project Documents, means the specified percentage, portion, or fraction of all of the votes.



Section 4.3 Rounding Convention. The total of any Allocated Interests, if stated as a fraction, shall be rounded up to the nearest one percent and shall be deemed to equal 100% for purposes of this Declaration.

Section 4.4 Effective Date of Reallocation. The effective date for reallocating Allocated Interests to Parcels as a result of the exercise of Development Rights set forth in Article XI of this Declaration shall be the date on which the amendment required by Section 11.3 thereof is recorded in the Records.

## ARTICLE V MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 5.1 Association Membership. Every Owner shall be a member of the Association and shall remain a member for the period of the Owner's ownership of a Parcel. No Owner, whether one or more persons or entity, shall have more than one membership per Parcel owned, but every Person owning a Parcel shall be entitled to rights of membership and of use and enjoyment appurtenant to ownership of a Parcel. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Parcel. If title to a Parcel is held by a firm, corporation, partnership, association, limited liability company or other legal entity, such entity shall by appropriate resolution or other entity action designate a board member or officer of a corporate Owner, or a general partner of a partnership Owner, or a member of a limited liability Owner or a comparable representative of any other entity and such representative shall have the power to cast the vote of the Owner as a member of the Association. If title to a Parcel is held by more than one individual or other legal entity or any combination thereof, such individuals, entity, or entities shall by written instrument executed by all such parties and delivered to the Association appoint and authorize one person or alternate persons to represent the Owners of the Parcel. Such representative shall be a natural person who is Owner, or a designated board member or officer of a corporate Owner, or a general partner of a partnership Owner, or a comparable representative of any other entity, and such representatives shall have the power to cast votes on behalf of the Owners as members of the Association, and serve on the Board of Directors if elected, subject to the vision of and in accordance with the procedures more fully described in the Bylaws of the Association. Notwithstanding the foregoing, if the Association has not received the written instrument required above and if only one of the multiple Owners of a Parcel is present at a meeting of the Association, such Owner is entitled to cast all votes allocated to that Parcel. If the Association has not received the written instrument required above and if more than one of the multiple Owners are present, the Association may assume that any Owner who casts the vote allocated to that Parcel is entitled to do so unless one or more of the other Owners of the Parcel promptly protest to the person presiding over the meeting. If such protest is made, the vote allowed to the Parcel may only be cast by written instrument executed by all Owners who are present at the meeting.

Section 5.2 Voting Rights and Meetings. Each Parcel in the Project shall have one vote appurtenant to it as provided in Section 4.2 above; provided, however, no votes allocated to a Parcel owned by the Association may be cast. A meeting of the Association shall be held at

least once each year. Special meetings of the Association may be called by the president, by a majority of the Board of Directors, or by Owners having at least the percentage of the votes in the Association specified in the Bylaws. Not less than 14 and no more than 60 days in advance of any meeting, the secretary or other officer specified in the Bylaws shall cause notice to be hand-delivered or sent prepaid by United States Mail to the mailing address of the Owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda including the general nature of any proposed amendment to this Declaration or Bylaws, any Budget changes and any proposal to remove an officer of the Association or any Director. Unless the Bylaws provide for a lower percentage, a quorum is deemed present throughout any meeting of the Association of persons entitled to cast 20% of the votes which may be cast for election of the Board of Directors are present, in person or by proxy at the beginning of the meeting.

Section 5.3 Meeting to Approve Annual Budget. At the annual meeting of the Association or at a special meeting of the Association called for such purpose, the Owners shall be afforded the opportunity to ratify a Budget as proposed by the Board of Directors. A summary of the proposed Budget approved by the Board of Directors shall be mailed to the Owners within 30 days after its adoption along with a notice of meeting of the Association to be held not less than 14 nor more than 60 days after mailing of the summary to the Owners. Unless at the meeting a majority of Owners, rather than a majority of those present and voting in person or by proxy, reject the proposed Budget, the Budget is ratified whether or not a quorum is present at the meeting. In the event the proposed Budget is rejected, the Budget last ratified and approved shall continue until such time as the Owners ratify a subsequent Budget proposed by the Board of Directors as provided above.

Section 5.4 Owners' and Association's Addresses for Notices. All Owners of each Parcel shall have one and the same registered mailing address to be used by the Association or other Owners for notices, demands, and all other communications regarding Association matters. The Owner or the representative of the Owners of a Parcel shall furnish such registered address to the secretary of the Association within ten days after transfer of title to the Parcel to such Owner or Owners. Such registration shall be in written form and signed by all of the Owners of the Parcel or by such persons as are authorized to represent the interests of all Owners of the Parcel. If no address is registered or if all of the Owners cannot agree, then the address of the Parcel shall be deemed their registered address until another registered address is furnished as required under this Section. If the address of the Parcel is the registered address of the Owner(s), then any notice shall be deemed duly given if delivered to any person occupying the Parcel or, if the Parcel is unoccupied, if the notice is held and available for the Owners at the principal office of the Association. All notices and demands intended to be served upon the Board of Directors shall be sent to the following address or such other address as the Board of Mangers may designate from time to time by notice to the Owner(s):

Bear's Den Board of Directors  
P.O. Box 595  
Sedalia, CO. 80135

Notices given in accordance with this Section 5.4 may be sent by personal delivery, which shall be effective upon receipt; by overnight courier service, which shall be effective upon deposit with the courier service; or regular, registered or certified mail, postage prepaid, which shall be effective three days after deposit in the US mail.

Section 5.5 Transfer Information. All purchasers of Parcel(s) shall provide to the Association written notice of the Purchaser's name, address, Parcel owned, date of transfer, and name of the former Owner within ten days of the date of transfer. The Purchaser shall also provide a true and correct copy of the recorded instrument conveying or transferring the Parcel or such other evidence of the conveyance or transfer as is reasonably acceptable to the Association. In addition, the Association may request such other information as the Association determines is necessary or desirable in connection with obtaining and maintaining information regarding conveyances and transfers of Parcels. The Association or Managing Agent shall have the right to charge the Purchaser a reasonable administrative fee for processing the transfer in the records of the Association.

Section 5.6 Declarant Control of the Association. There shall be a Period of Declarant Control of the Association, during which a Declarant, or persons designated by the Declarant may appoint and remove the officers and Directors. The Period of Declarant Control shall commence upon filing of the Articles of Incorporation and shall terminate no later than the earlier of:

- (a) 60 days after conveyance to Owners other than a Declarant of 75% of the Parcels that may be created;
- (b) two years after Declarant's last conveyance of a Parcel in the ordinary course of business; or
- (c) two years after any right to add new Parcels was last exercised.

The Declarant may voluntarily surrender the right to appoint and remove officers and Directors before termination of that period, but 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.

Section 5.7 Required Election of Owners. Not later than 60 days after conveyance of 25% of the Parcels that may be created to Owners other than a Declarant, at least one Director shall be elected by Owners other than the Declarant. Not later than 60 days after conveyance of 50% of the Parcels that may be created to Owners other than Declarant, not less than one-third of the Directors must be elected by Owners other than Declarant. Not later than the termination of any Period of Declarant Control, the Owners shall elect a Board of Managers of at least three Directors, at least a majority of whom shall be Owners other than Declarant or designated representatives of Owners other than Declarant. The Board of Directors shall elect the officers. The Board of Directors and officers shall take office upon election.

Section 5.8 Removal of Directors. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, following notice and an opportunity to be heard as required by this Declaration and the Act, the Owners, by a 67% vote of all persons present and entitled to vote at a meeting of the Owners at which a quorum is present, may remove a Director with or without cause, other than a Director appointed by the Declarant.

Section 5.9 Requirements for Turnover of Declarant Control. Within 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 and Regulations which may have been promulgated;

(b) An accounting for Association funds and financial statements, from the date the Association received funds and ending on the date the Period of Declarant Control ends. If requested by the Association, the financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expenses of the audit shall not be paid for or charged to the Association;

(c) The Association funds or control thereof;

(d) All of Declarant's tangible personal property that has been represented by the Declarant to be the property of the Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Elements, and inventories of these properties;

(e) A copy of any plans and specifications used in the construction of the improvements which were completed within two years before this Declaration was recorded;

(f) All insurance policies then in force, in which the Owners, the Association or its Directors and officers are named as insured persons;

(g) Copies of any certificates of occupancy that may have been issued with respect to the improvements;

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

(i) Written warranties of all contractors, subcontractors, suppliers, and manufacturers that are still effective;

(j) A roster of Owners and Eligible First Mortgagees and the addresses and telephone numbers, if known, as shown on the Declarant's records;

(k) Employment contracts in which the Association is a contracting party; and

(l) 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 persons performing the services.

## ARTICLE VI ASSOCIATION POWERS AND DUTIES

Section 6.1 Association Management Duties. Subject to the rights and obligations of Declarant and other Owners as set forth in this Declaration, the Association shall be responsible for the administration and operation of the Project, including Administrative Functions, and for the exclusive management, control, maintenance, repair, replacement and improvement of the Common Elements, and shall keep the same in good, clean, attractive, and sanitary condition, order and repair. The expenses, costs, and fees of such management, control, operation, maintenance, repair, replacement and improvement by the Association shall be part of the Assessments, and prior approval of the Owners shall not be required in order for the Association to pay any such expenses, costs, and fees. The Association shall establish and maintain, out of the installments of the annual Assessments, an adequate reserve account for maintenance, repair, or replacement of those Common Elements that must be maintained, repaired or replaced on a periodic basis. The Association shall adopt and amend Budgets for revenues, expenditures, and reserves which will be the basis for collection of Assessments for Common Expenses from Owners. The Association shall keep financial records sufficiently detailed to enable the Association to comply with the requirement that it provide statements of status of assessments. All financial and other records of the Association shall be made reasonably available for examination by any Owner and such Owner's authorized agents, provided that the Association's list of Owners may not be used for any purpose unrelated to an Owner's interest without written consent from the Board of Directors. The financial records of the Association may be audited or reviewed at the discretion of the Board of Directors or upon the written request of at least one-third of the Owners. The Association shall notify Owners within ninety (90) days after any change in the Association's address or the Association's management.

Section 6.2 Grant of Easements: Description of Common Elements. Declarant hereby grants, conveys, and dedicates to the Association for the common use of the Owners the following easements:

(a) A perpetual non-exclusive ten-foot wide easement for utilities along the boundary lines of each Parcel, subject to the reservations of Declarant in Article X.

(b) Perpetual non-exclusive landscape easements as described and depicted on the Survey, subject to the reservations of Declarant in Article X and more fully described in that certain document titled "Landscape Easement Agreement" and recorded in the Douglas County Clerk and Recorder's Office.

(c) Perpetual non-exclusive easements as described and depicted on the Survey as Water Storage Easement, subject to reservation of Declarant in Article X and more fully described in that certain document titled "Water Storage Easement Agreement" and recorded in the Douglas County Clerk and Recorder's Office.

(d) Additional easements for utilities and other purposes over and across the Parcels and Common Elements may be as shown upon the Survey and on any recorded map of the Project, and additional utility easements may be established pursuant to the provisions of this Declaration or granted by authority reserved in any recorded document. Easements are also reserved along all private streets, access drives, alleys, and Parcel boundaries for street signs, stop signs, mail boxes, and other Improvements as allowed or permitted by Declarant or the Association.

(e) Declarant, for itself and any successor declarant, hereby reserves the right to use the easements set forth in this Article (the "Easements") for the construction and improvement of the Easements and for all other uses not inconsistent with its Development Rights and Special Declarant Rights as set forth in Articles X and XI hereof and in the Act. Declarant reserves the right to relocate any Easement, at its sole cost and expense, from time to time, as may be necessary to conform the location of said Easement to Declarant's development plans for the Project. The Association shall execute any and all documents that Declarant may reasonably require to acknowledge and confirm the relocation of the Easements. In addition, Declarant reserves for itself, the Association, and the Owners the right to use and occupy the Easements for any purposes that do not interfere with or endanger any utility lines, fixtures, and devices and that do not obstruct the access drives and alleys.

Section 6.3 Association Powers. The Association shall have, subject to the limitations contained in this Declaration and the Act, the powers necessary for the administration of the affairs of the Association and the upkeep of the Project which shall include, but not be limited to, the power to:

- (a) adopt and amend Bylaws and Rules and Regulations;
- (b) adopt and amend Budgets for revenues, expenditures and reserves;
- (c) collect Assessments for Common Expenses from Owners;

- (d) hire and discharge managing agents; attorneys, accountants;
- (e) hire and discharge employees and agents, other than managing agents, attorneys, accountants and independent contractors;
- (f) institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Declaration, Bylaws or Rules and Regulations in the Association's name on behalf of the Association or two or more Owners on matters affecting the Project;
- (g) make contracts, incur liabilities and borrow money;
- (h) regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- (i) cause additional improvements to be made as part of the Common Elements;
- (j) acquire, hold, encumber and convey in the Association's name any right, title or interest to real property, personal property, or water and/or water rights but Common Elements may be conveyed or subject to a Security Interest only pursuant to the requirements of the Act;
- (k) grant easements, including permanent easements, leases, licenses and concessions, through or over the Common Elements;
- (l) impose and receive a payment, fee or charge for the use, rental or operation of the Common Elements, and for services provided to Owners;
- (m) impose a reasonable charge for late payment of Assessments, recover reasonable attorney fees and other legal costs for collection of assessment and other actions to enforce the powers of the Association, regardless of whether or not suit was initiated and, after notice and hearing, levy reasonable fines for violations of this Declaration, Bylaws and Rules and Regulations of the Association;
- (n) impose a reasonable charge for the preparation and recordation of amendments to this Declaration or for statement of unpaid Assessments;
- (o) provide for the indemnification of the Association's officers and Board of Directors and maintain director's and officer's liability insurance;
- (p) assign the Association's right to future income, including the right to receive Assessments and assign the Assessment liens against Parcels;

(q) exercise any other powers conferred by the Act, this Declaration or the Bylaws;

(r) exercise any other power that may be exercised in this state by legal entities of the same type as the Association;

(s) exercise any other power necessary and property for the governance and operation of the Association;

(t) by resolution, establish committees of the Board of Directors and/or Owners, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee;

(u) convey fee simple title or otherwise dedicate or transfer all or any part of the roads or driveways constructed within the Common Elements to any public agency or authority provided that with respect to roadways, the Association shall first have obtained the agreement of the applicable public agency or authority to accept the same for maintenance;

(v) install, develop, operate, maintain, repair, replace and reconstruct any and all landscaping, installations, facilities and signage necessary or desirable to enhance, promote and secure access on, through and over the Common Elements; and

(w) manage any plan of augmentation pertaining to water or water rights in the Project.

Notwithstanding the provisions of the foregoing, or any other provisions of this Declaration to the contrary, the Association shall have no right or authority to limit or abrogate any of the rights conveyed in that certain Easement Deed and Agreement dated August 30, 2006, and recorded on August 31, 2006, in the office of the Clerk and Recorder for Douglas County, Colorado, at Reception No.2006075478, to the owners of the Hollern Parcel (as defined therein) and/or any residential parcels created within the Hollern Parcel.

#### Section 6.4 Actions by the Board of Directors.

(a) Except as specifically otherwise provided in this Declaration, the Bylaws or the Act, the Board of Directors may act in all instances on behalf of the Association; provided, however, the Board of Directors may not act on behalf of the Association to amend this Declaration, to terminate the Project, or to elect Directors or determine the qualifications, powers and duties, or terms of office of Directors, but the Board of Directors may fill vacancies in its membership for the unexpired portion of any term.

(b) If any contract, decision, or other action taken by or on behalf of the Board would financially benefit any Director or anyone who is an immediate family member of



a Director, that Director shall declare a conflict of interest for that issue. Such Director shall declare the conflict in an open meeting, prior to any discussion or action on that issue. After making such declaration, the Director may participate in the discussion but shall not vote on that issue. The remaining Directors may vote on such issue and may approve such issue by a majority of disinterested Directors even if such disinterested Directors do not constitute a quorum.

(c) The Board may authorize and pay for as a Common Expense the reimbursement of Directors for their actual and necessary expenses incurred in attending educational meetings and seminars on responsible governance of owners' associations. The course content of such educational meetings and seminars shall be specific to Colorado and shall make reference to the applicable sections of the Act.

(d) The Board may create committees for the purpose of carrying out some of its management responsibilities, provided that the delegation by the Board of any of its responsibilities to a committee shall not be deemed to relieve the Board of such responsibilities. Without limiting the generality of the forgoing, the Board may act as, or appoint the members of, the Planning and Architectural Control Committee, and special Rules and Regulations applicable to it, for the purpose of reviewing and approving or disapproving, as applicable, any plans of the Owners to make changes, additions, or renovations to any structural components or exterior facades of any Improvements within the Project.

(e) The Association may not loan funds to any member of the Board of Directors.

(f) Regarding the investment of the Association's reserve funds, the Board of Directors is subject to C.R.S. Section 7-128-401, *et seq.*, as amended.

Section 6.5 Board of Directors Meetings. All meetings of the Board of Directors, at which action is to be taken by vote, will be open to the Owners. Any Owner or his designated representative who wishes to speak regarding an issue shall be permitted to speak before the Board of Directors votes on the issue. Notwithstanding the foregoing, meetings of the Board of Directors may be held in executive session(s), without giving notice and without the requirement that they be open to Owners, in the following situations:

(a) no action is taken at the executive sessions requiring the affirmative vote of the Directors; or

(b) the action taken at the executive session involves personnel, pending litigation, contract negotiations, enforcement actions, or matters involving the invasion of privacy of individual Owners, or matters which are to remain confidential by request of the affected parties and agreement of the Board of Directors in its discretion.

Section 6.6 Right to Notice and Hearing. Whenever the Project Documents require that an action be taken after “notice and hearing,” the following procedure shall be observed: The party proposing to take the action (e.g., the Board of Directors, committee, an office, the Managing Agent) shall give notice of the proposed action to all Owners whose interests the proposing party reasonably determines could be significantly affected by the proposed action. The notice shall be delivered personally or mailed not less than three days before the proposed action is to be taken. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the hearing to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. The affected person shall be notified of the decision in the same manner in which notice of the hearing was given. Any Owner having a right to notice and hearing shall have the right to appeal to the Board of Directors from a decision of a proposing party other than the Board of Directors by filing a written notice of appeal with the Board of Directors within ten days after being notified of the decision. The Board of Directors shall conduct a hearing of the appeal within 45 days, giving the same notice and observing the same procedures as were required for the original hearing.

Section 6.7 Payments to Working Capital Account. In order to provide the Association with adequate working capital funds, the Association may collect from Purchasers at the time of the initial sale of each Parcel by Declarant an amount equal to three months worth of annual Assessments based on the Budget in effect at the time of the sale. Such payments to this fund shall not be considered advance payments of annual Assessments.

## ARTICLE VII ASSESSMENTS

Section 7.1 Commencement of Annual Assessments. Until the Association makes a Common Assessment for Common Expenses, the Declarant shall pay all Common Expenses. After any Common Assessment has been made by the Association, Common Assessments shall be made no less frequently than annually.

Section 7.2 Annual Common Assessments. The Association shall levy annual Common Assessments to pay for the Common Expense Liability allocated to each Parcel pursuant to this Declaration. The total annual Assessment shall be based upon the Budget which shall include an estimation of the Association's cash requirements for upkeep of the Project including maintenance, repair and replacement of the Common Elements as required by the Act and the Project Documents. 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 credited to the Owners in proportion to their future Common Expenses Liability or credited to them to reduce their future Assessments for Common Expenses.

Section 7.3 Apportionment of Annual Common Assessments. The total annual Common Assessment for any fiscal year of the Association shall be assessed to the Parcels in

proportion to their Allocated Interests. All such allocations of Common Expenses to Parcels on a basis other than in accordance with their Allocated Interests shall be made at the sole discretion of the Board of Directors. Any billing for an installment of Common Assessments may indicate items that are specifically allocated as set forth above or items that are included in the Common Assessment and allocated based on the Parcels' Allocated Interests in the Common Elements but would commonly be the separate expense of the Owner, e.g., utility charges.

Section 7.4 Special Assessments. In addition to the annual Common Assessments authorized above, the Board of Directors may at any time and from time to time determine, levy, and assess in any fiscal year a Special Assessment applicable to that particular fiscal year (and for any such longer period as the Board of Directors may determine) for the purpose of defraying, in whole or in part, the unbudgeted costs, fees, and expenses of any construction, reconstruction, repair, demolition, replacement, renovation or maintenance of the Project, specifically including any fixtures and personal property related to it. Any amount determined, levied, and assessed pursuant to this Declaration shall be assessed to the Parcel pursuant to the provisions in Section 7.3 above. Any Special Assessment shall be subject to the same requirement for review and approval by the Owners as is the Budget.

Section 7.5 Reimbursement Assessments. In addition, the Board of Directors may levy a Reimbursement Assessment against any Parcel for any of the following reasons: (a) Common Expenses associated with the maintenance, repair or replacement of Limited Common Elements appurtenant to such Parcel; (b) any increased cost of insurance based upon risk which shall be assessed to Parcels in proportion to the risk; (c) the expenses incurred by the Association in providing a special service to any Owner or Parcel beyond what is required of the Association by this Declaration; and (d) any Common Expense specifically caused by the actions of any Owner(s), which may be assessed against such Owner(s). Such Assessment shall be known as a "Reimbursement Assessment." The amount of the Reimbursement Assessment shall be due and payable to the Association 30 days after notice to the Owner of the decision of the Board of Manager that the Reimbursement Assessment is due and payable. An Owner shall be entitled to notice and hearing prior to the issuance of a Reimbursement Assessment against such Owner by the Association.

Section 7.6 Default Assessments. The Association may also levy against a Parcel and its Owner all costs of Enforcement and other charges, costs, interest, fees, and assessments, including without limitation, Assessments relating to defaults, acts, errors or omissions of an Owner, or his family, tenants, guests or invitees, as provided in this Declaration ("Default Assessments"). Notice of the amount and demand for payment of such Default Assessment shall be sent to the Owner prior to enforcing any remedies for non-payment hereunder.

Section 7.7 Due Dates for Assessment Payments. Unless otherwise determined by the Board of Directors, the annual Common Assessments, any Special Assessments or Reimbursement Assessments which are to be paid in installments shall be paid monthly in advance, and shall be due and payable to the Association at its office or as the Board of Directors may otherwise direct in any Management Agreement, without notice (except for the initial notice of any Special Assessment), on the first day of each month. If any such installment shall not be paid within 30 days after it shall have become due and payable, then the Board of

Directors may assess a late charge, default interest charge, fee, or such other charge as the Board of Directors may fix by rule from time to time in its discretion to cover the extra expenses involved in handling such delinquent Assessment installment. Until established or changed by the Board of Directors, the default interest charge may be made at the rate of eighteen percent (18%) per annum. A Owner's Assessment shall be prorated if the ownership of a Parcel commences or terminates on a day other than the first day or last day, respectively, of a month or other applicable payment period.

Section 7.8 Covenant of Personal Obligation for Assessments. Declarant, by creating the Parcels pursuant to this Declaration, and all Owners agree that all Assessments from the Association are personal obligations of the Owner. No Owner may disavow or otherwise escape liability for the payment of Assessments on grounds that such Owner is not using the Common Elements or by abandoning or leasing the Parcel.

Section 7.9 Lien for Assessments; Assignment of Rents. The Common Assessments, Special Assessments, Reimbursement Assessments, and Default Assessments (and any installments of the Assessments) arising under the provisions of the Project Documents shall be burdens running with, and a perpetual lien in favor of the Association, upon the specific Parcel to which such Assessments apply. Upon default in the payment of any Assessments, the Association shall have the right to appoint a receiver to collect all rents, profits, or other income from the Parcel payable to the Owner and to apply all such rents, profits, and income to the payment of delinquent Assessments. Each Owner, by ownership of a Parcel, agrees to the assignment of such rents, profits and income to the Association effective immediately upon any default in the payment of Common, Special, Reimbursement or Default Assessments.

Section 7.10 Remedies for Nonpayment of Assessments. If any Assessment (or any installment of the Assessment) is not fully paid within 30 days after the same becomes due and payable, then as often as the same may happen, (a) interest shall accrue at the default rate set by the Rules and Regulations on any amount of the Assessment in default, accruing from the due date until date of payment; (b) the Association may accelerate and declare immediately due and payable all unpaid installments of the annual Assessment otherwise due during the fiscal year during which such default occurred and/or the entire amount of or any special assessment; (c) the Association may thereafter bring an action at law or in equity, or both, against any Owner personally obligated to pay the same; and (d) the Association may proceed to foreclose its lien against the particular Parcel pursuant to the power of sale granted to the Association by this Declaration or in the manner and form provided by Colorado law for foreclosure of real estate mortgages. An action at law or in equity by the Association (or counterclaims or cross-claim for such relief in any action) against a Owner to recover a money judgment for unpaid Assessments (or any installment thereof) may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien for the Assessments. Foreclosure or attempted foreclosure by the Association of its lien shall not, be deemed to stop or otherwise preclude the Association from again foreclosing or attempting to foreclose its lien for any subsequent Assessments (or installments thereof) which are not fully paid when due or for any subsequent default Assessments. The Association shall have the power and right to bid in or purchase any Parcel at foreclosure or other legal sale to acquire and hold, lease, mortgage, and to convey, or otherwise deal with the Parcel acquired in such proceedings.

Section 7.11 Purchaser's Liability for Assessments. Notwithstanding the personal obligation of each Owner to pay all Assessments on the Parcel, and notwithstanding the Association's perpetual lien upon a Parcel for such Assessments, all Purchasers shall be jointly and severally liable with the prior Owner(s) for any and all unpaid Assessments against such Parcel, without prejudice to any such Purchaser's right to recover from any prior Owner any amounts paid thereon by such Purchaser. A Purchaser's obligation to pay assessments shall commence upon the date the Purchaser becomes the Owner of a Parcel. For Assessment purposes, the date a Purchaser becomes the Owner shall be determined as follows: (a) in the event of a conveyance or transfer by foreclosure, the date of the expiration of all applicable redemption periods; (b) in the event of a conveyance or transfer by deed in lieu of foreclosure, upon the execution and delivery of the deed or other instruments conveying or transferring title to the Parcel, irrespective of the date the deed is recorded; and (c) in the event of conveyance or transfer by deed in lieu of foreclosure, upon the execution and delivery of the deed or other instruments conveying or transferring title of the Parcel, irrespective of the date the deed is recorded. However, such Purchaser shall be entitled to rely upon the existence and status of unpaid Assessments as shown upon any certificate issued by or on behalf of the Association to such named Purchaser pursuant to the provisions set forth in this Declaration.

Section 7.12. Waiver of Homestead Exemption: Subordination of Association's Lien for Assessments. By acceptance of the deed or other instrument, of transfer of a Parcel, each Owner irrevocably waives the homestead exemption provided by C.R.S. § 38-41-201 *et seq.*, as amended. The Association's perpetual lien on a Parcel for Assessments shall be superior to all other liens and encumbrances except the following:

(a) real property *ad valorem* taxes and special assessment liens duly imposed by a Colorado governmental or political subdivision or special taxing district, or any other liens made superior by statute; and

(b) the lien of any First Mortgagee except to the extent the Act grants priority for Assessments to the Association.

Any First Mortgagee who acquires title to a Parcel by virtue of foreclosing a First Mortgage or by virtue of a deed or assignment in lieu of such a foreclosure, or any Purchaser at a foreclosure sale of the First Mortgage, will take the Parcel free of any claims for unpaid Assessments and Costs of Enforcement against the Parcel which accrue prior to the time such First Mortgage acquires title to the Parcel except to the extent the amount of the extinguished lien may be reallocated and assessed to all Parcels as a Common Expense and except to the extent the Act grants lien priority for Assessments to the Association. All other persons not holding liens described in this Section and obtaining a lien or encumbrance on any Parcel after the recording of this Declaration shall be deemed to consent that any such lien or encumbrance shall be subordinate and inferior to the Association's lien for Assessments and Costs of Enforcement as provided in this Article VII, whether or not such consent is specifically set forth in the instrument creating any such lien or encumbrance. Any sale or other transfer of any Parcel (a) except as provided above with respect to First Mortgagees, (b) except in the case of foreclosure of any lien enumerated in this Section, and (c) except as provided in Section 7.13, shall not affect the Association's lien on such Parcel

for Assessments due and owing prior to the time such Purchaser acquired title and shall not affect the personal liability of each Owner who shall have been responsible for the payment thereof. Further, no such sale or transfer shall relieve the Purchaser of a Parcel from liability for, or the Parcel from the lien of, any Assessment made after the sale or transfer.

Section 7.13 Statement of Status of Assessments. Upon ten days' written notice to the Managing Agent or Board of Directors and payment of a reasonable fee set from time to time by the Board of Directors, any Owner, holder of a Security Interest, prospective Purchaser of a Parcel or their designees shall be furnished a statement of the Owner's account setting forth:

- (a) the amount of any unpaid Assessments then existing against a particular Parcel;
- (b) the amount of the current installments of the annual Assessment and the date that the next installment is due and payable;
- (c) the date(s) for payment of any installments of any special Assessments outstanding against the Parcel; and
- (d) any other information deemed proper by the Association, including the amount of any delinquent Assessments created or imposed under the terms of this Declaration.

Upon the issuance of such a certificate signed by a Director, by an officer of the Association or by a Managing Agent, the information contained therein shall be conclusive upon the Association as to the person or persons to whom such certificate is addressed and who rely on the certificate in good faith.

Section 7.14 Liens. Except for Assessment liens as provided in this Declaration, mechanics liens (except as prohibited by this Declaration), tax liens, judgment liens and other liens validly arising by operation of law and liens arising under Security Interests, there shall be no other liens obtainable against the Common Elements or against the interests of any Owner in the Common Elements granted by the Association pursuant to the requirements of the Act.

## ARTICLE VIII INSURANCE AND CASUALTY

Section 8.1 Types of Insurance. The Association shall obtain and keep in full force and effect the following insurance coverage, if appropriate, the costs of which shall be a Common Expense:

- (a) Property and fire insurance with extended coverage and standard all-risk endorsements, including vandalism and malicious mischief, on all Improvements which are Common Elements. The total amount of insurance, after application of deductibles,

shall be 100% of the replacement value of the insured property exclusive of land, foundations and other items normally excluded from property policies.

(b) Public liability and property damage insurance, including medical payments insurance, in an amount to be determined by the Board, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the ownership, operation, maintenance or other use of the Common Elements. This policy shall also cover operation of automobiles or other vehicles or equipment on behalf of the Association.

(c) Worker's compensation and employer's liability insurance in the amounts and in the forms required by applicable Colorado law.

(d) Fidelity coverage against the dishonesty of employees, destruction or disappearance of money or securities, and forgery. This policy shall also cover persons who serve the Association without compensation.

(e) Coverage of Directors and the officers of the Association against libel, slander, false arrest, invasion of privacy and errors and omissions and other forms of liability generally covered in officers and directors liability policies.

(f) Coverage against such other risk of a similar or dissimilar nature as the Board deems appropriate.

Notwithstanding the preceding, unless required by applicable law, the Association shall be permitted to omit any of the coverage described in (d) or (e) above where premiums are unreasonably expensive or the coverage is not available in this geographic area or the coverage is not offered by a carrier of sufficient credit rating.

Section 8.2 Named Insured and Interests. The Association shall be the named insured under each of said policies. Where appropriate, the named insured may be the Directors and the officers of the Association. Policies of insurance shall also name Declarant as an insured, as long as it shall retain any interest in the Project. If available at a commercially reasonable cost, the liability policies shall also name each Owner as an insured. The certificate or memoranda of insurance, duplicate originals of all policies and renewals, and proof of payment of premiums shall be issued to the Association, and upon written request, to Declarant and to any Owner who is a named insured or to any Eligible First Mortgagee.

Section 8.3 Insurance Proceeds. The Association shall receive the proceeds of any insurance purchased by the Association. The Association shall have the exclusive authority to adjust losses and the insurance maintained by the Association shall not be brought into contribution with insurance purchased by any Owner or third party. In the event of damage or destruction due to fire or other disaster, if the insurance proceeds are sufficient to reconstruct the Improvements, the Association shall promptly cause such reconstruction to occur. If the insurance proceeds are not sufficient for such purpose, the Association may levy a Special Assessment for such deficiency in the manner provided in Section 7.4 above.

Section 8.4 Insurance Endorsements. Insurance policies obtained by the Association shall provide or contain endorsements that provide (a) coverage for each Owner as an insured Person under the policy with respect to liability arising out of such Owner's membership in the Association; (b) a waiver of rights of subrogation as against the Association and each Owner and member of the Owner's household and as against any officer, director, agent or employee of the Association or an Owner; (c) a waiver of the insurer's rights to repair and reconstruct instead of paying cash; (d) that cancellation, invalidation, suspension or renewal by the insurer is precluded on account of any one or more individual Owners or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; (e) no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; (f) 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 Association's policy provides primary insurance; (g) exclusion of individual Owners' policies for consideration under any "other insurance" clause; and (h) that at least 30 days' prior written notice shall be given to the Association and each Owner and each holder of a Security Interest to whom a certificate or memorandum has been issued of any cancellation, material modification or nonrenewal. All insurance shall in all events, satisfy the minimum requirements of the Act.

Section 8.5<sup>\*</sup> Assessment for Damage. The cost of repair or replacement in excess of insurance proceeds and reserves, as well as all deductibles, are Common Expenses. The Association shall have the authority to assess a Reimbursement Assessment against any negligent Owner causing such loss or benefiting from such repair or restoration, for all deductibles paid by the Association. If more than one Parcel 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 8.6 Duty to Repair. Any portion of the Common Elements for which insurance is required under this Article VIII that is damaged or destroyed must be repaired or replaced promptly by the Association, except as provided in the Act.

Section 8.7 Condemnation and Real Estate Insurance Allocations and Distributions. In the event of destruction, condemnation, or partial condemnation of the Common Elements, property insurance proceeds and/or proceeds from any sale of the Real Estate and the assets of the Association, as applicable, shall be held and distributed by the Association as trustee for the Owners and the holders of Security Interests on the Parcels as their interests may appear.



ARTICLE IX  
**RESTRICTIVE COVENANTS**

Section 9.1 Prohibited Improvements. No used or secondhand structure, no building of a temporary character, no mobile home, house trailer, tent, shack, or outbuilding shall be placed or used on a Parcel, either temporarily or permanently; except that to the extent permitted by County regulations, necessary appurtenances for and during actual construction may be used, and trailers and structures of a temporary nature may be used during the period of construction of an approved and allowed Improvement, but for no longer period than 12 months without the written consent of the Committee. No Owner shall be allowed to further subdivide a Parcel.

Section 9.2 Signs. No signs (including real estate signs), billboards, posterboards, or advertising structure of any kind shall be erected or maintained for any purpose whatsoever unless approved by the Committee and except as permitted by the Act. Notwithstanding the foregoing: (a) Declarant or its agent shall have the right to erect signs during the period of sales of Parcels without prior written approval of the Committee; (b) the Project monument, Project identification and other signs that the Association may install and maintain on the easement granted herein; (c) such traffic control signs as the Association may cause to be placed in the Common Elements; and (d) Owners and Occupants may display the American flag, military service flags and political signs subject to the size limitations set forth in the Act.

Section 9.3 No Mining, Drilling or Quarrying. Except for water wells, no mining, quarrying, tunneling, excavating, or drilling for any substances within the earth, including oil, gas, minerals, gravel, sand, rock and earth, shall ever be permitted within the limits of the Project.

Section 9.4 Trash. No trash, ashes, or other refuse or debris may be thrown or dumped on the Parcels. The burning of refuse out-of-doors shall not be permitted. No incinerators or other device for the burning of refuse indoors shall be constructed, installed, or used by any person except as approved by the Committee. Waste materials, garbage, and trash shall be kept in sanitary containers and shall be enclosed and screened from public view and protected from disturbance and shall be disposed of with reasonable promptness. Each Owner shall keep his or her Parcel free of trash, refuse or debris of any kind, even if said Parcel is vacant or unimproved.

Section 9.5 Animals. Except as otherwise permitted by the Project Documents, no animals, poultry or reptiles of any kind shall be raised, bred, grazed, or kept within the Project. Notwithstanding the foregoing, Owners of Parcels 5, 7, 8, 17, 18, 19 and 20 shall keep no horses or animals of any kind, except household pets. Parcels 2, 12 and 13 shall have no more than 4 horses or cattle at any time, and grazing on these parcels is prohibited. Parcels 1, 3, 6, 9, 10, 11, 14 and 15 shall have no more than 4 horses or cattle at any time and limited grazing will be allowed when a grazing plan is approved by the Committee. Parcels 4, and 21 may have up to 8 horses or cattle at any time and grazing is allowed with an approved grazing plan from the Committee. Parcels 16, 22 and 23 shall be allowed up to 20 horses or cattle at any time and grazing is allowed with an approved grazing plan from the Committee. Parcel owners must have all required grazing plans referred to above on hand at all times and such plans must be renewed

annually by the Committee. Certain other 4H type animals may be allowed on any Parcel on a limited basis with the approval of the Committee.

All animals shall be kept in accordance with County regulations and such rules and regulations as may be imposed by the Association from time to time in the Architectural Standards. which may limit further the number of animals that may be kept on a Parcel. All domestic household pets shall be confined to their Owners' premises and shall not be permitted to become an annoyance or nuisance to other Owners. All horses and cattle shall be fenced and confined to their Owners' Parcel. shall not be permitted to become an annoyance or nuisance to other Owners. shall not be permitted to overgraze any portion of the Parcel (except that pens and corrals may be de-vegetated), and shall be kept in strict compliance with Colorado and County laws, ordinances and regulations regarding horses and other livestock. Grazing shall be strictly prohibited, except on Parcels 1, 3, 4, 6, 9, 10, 11, 14, 15, 16, 21, 22, and 23. Owners shall construct pens and corrals for any horses or livestock kept on any Parcel and such construction shall be in accordance with the Architectural Standards and other rules of the Committee and such pens and corrals shall be maintained and cleaned regularly. Owners shall remove or spread manure so that no nuisance is caused to the other Owners. Notwithstanding the foregoing, this Section 9.5 shall not apply to any grazing lease entered into by Declarant for any Parcel owned by Declarant.

Section 9.6 Continuity of Construction. All structures commenced shall be constructed diligently to completion.

Section 9.7 Noxious Annoying or Offensive Activity. No noxious or offensive activity shall be carried on upon any Parcel, nor shall anything be done or placed on the Property which creates a disturbance or annoyance to others. No lights shall be emitted from any Parcel which is unreasonably bright or causes unreasonable glare; no sound shall be emitted from any Parcel which is unreasonably loud or annoying and no odor shall be emitted from any Parcel which is noxious or offensive to others. Nothing shall be done, on or permitted to be done on the Common Elements which is a nuisance or might become a nuisance to Owners.

Section 9.8 Uses In A-1 Zoning District. For Parcels 1 through 20, all land uses otherwise permitted in an A-1 zoning district under the Douglas County Zoning Resolution, in existence now or hereinafter enacted or amended, are hereby prohibited except those land uses as follows: (a) animals (except as limited by Section 9.5 and the Project Documents); (b) single-family residential (c) water/wastewater treatment/storage of 5000 gallons or less; (d) farming/ranching and Accessory Uses and Buildings; and (e) any other use allowed in this Declaration.

Section 9.9 Use of Utility Lines Roadways. No Owner shall have the right to grant access to utilities or roadways within the Project for the benefit of any real property that is not a part of the Project.

Section 9.10 Uses on Parcels 22 and 23. Subject to compliance with the Douglas County Zoning Resolution, the following special uses are granted to Parcels 22 and 23,

notwithstanding any other provisions in this Declaration or rules and regulations promulgated hereunder:

(a) Commercial rearing and boarding of domestic farm and ranch animals on Parcels 22 and 23. Fencing shall be permitted in accordance with the Architectural Standards and Project Documents.

(b) Ranching and farming operations typical of those engaged in by farmers and ranchers within Colorado including the sowing, harvesting and selling of crops, the grazing of farm and ranch type animals, and irrigation.

(c) Two windmills and stock tanks shall be allowed on Parcels 22 and 23 erected outside of the building envelope so long as they are located in compliance with all setback requirements.

(d) Owners of Parcels 22 and 23 shall be entitled to operate motor vehicles anywhere on Parcels 22 and 23 for the use in farming and ranching operations.

(e) Owners of Parcels 22 and 23 shall be allowed to harvest game animals as permitted within the rules and regulations set forth by the Colorado Division of Wildlife as long as such Parcels are owned by the Declarant.

(f) Parcels 22 and 23 shall be entitled to have farm and ranch animals other than those depicted in Section 9.5 as long as such animals are confined to the building envelope.

(g) All others uses allowed within the Agricultural One District at the time that any such use(s) are requested.

Except as specifically stated herein, Parcels 22 and 23 remain subject to all other provisions of this Declaration and rules and regulations promulgated hereunder.

Section 9.11 Uses on Parcel 16. Subject to compliance with the Douglas County Zoning Resolution, the following special uses are granted to Parcel 16 notwithstanding any other provisions in this Declaration or rules and regulations promulgated hereunder:

(a) Commercial rearing and boarding of animals, pursuant to Section 9.5. Fencing shall be in accordance with the Architectural Standards and Project Documents.

(b) Ranching and farming operations typical of those engaged in by farmers and ranchers within Colorado including the sowing, harvesting and selling of crops, the grazing of farm and ranch animals, and the irrigation of no more than 1 acre, provided that no sales activity or advertising shall be allowed.

(c) One windmill and one stock tank shall be allowed on Parcel 16 erected outside of the building envelope so long as it is located in compliance with all setback requirements.

(d) Owners of Parcel 16 shall be entitled to operate motor vehicles anywhere on Parcel 16 for the use in farming and ranching operations.

Except as specifically stated herein, Parcel 16 remains subject to all other provisions of this Declaration and rules and regulations promulgated hereunder.

Section 9.12 Uses on Parcels 4 and 21. Subject to compliance with the Douglas County Zoning Resolution, the following special uses are granted to Parcels 4 and 21 notwithstanding any other provisions in this Declaration or rules and regulations promulgated hereunder:

(a) Commercial rearing and boarding of animals, pursuant to Section 9.5. Fencing shall be allowed in accordance with the Architectural Standards and Project Documents.

(b) Ranching and farming operations typical of those engaged in by farmers and ranchers within Colorado including the sowing, harvesting and selling of crops, the grazing of farm and ranch type animals, and irrigation. Provided that no sales activity or advertising shall be allowed.

(c) One windmill and one stock tank shall be allowed on Parcels 4 and 21 erected outside of the building envelope so long as it is located in compliance with all setback requirements.

(d) Owners of Parcels 4 and 21 shall be entitled to operate motor vehicles anywhere on their respective Parcels for use in farming and ranching operations.

Except as specifically stated herein, Parcels 4 and 21 remains subject to all other provisions of this Declaration and rules and regulations promulgated hereunder.

Section 9.13 Restricted Uses on Parcels 5, 7, 8, 17, 18, 19, and 20. Parcels 5, 7, 8, 17, 18, 19, and 20, shall be restricted to one (1) outbuilding only, not exceeding 225 square feet footprint.

Section 9.14 Compliance with Survey. Each Owner shall comply with all obligations, restrictions and requirements set forth on the Survey, including permitted and prohibited uses on the Open Space and within each Building Envelope.

Section 9.15 Compliance with Water Decrees. Each Owner shall comply fully with all obligations, restrictions and requirements set forth in all Findings of Fact, Conclusions of Law, Rulings of the Referee, Judgments and Decrees applicable to the Property. Specifically, Parcels

1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, will be served by individual wells in the Denver or Arapahoe aquifers pursuant to an augmentation plan decreed in Case No. 2004CW10, District Court, Water Division 1, as recorded in the Douglas County Clerk and Recorder's Office at Reception # 2006073263 (the "Augmentation Plan"). (The terms and conditions of the well supplying Parcel 2 may be from another decree, but will have the same conditions of use as Case No. 2004CW10, and the terms and conditions of this section still apply to that Parcel). The Owners of these Parcels will be conveyed the right to withdraw one acre-foot per year in both the Denver and Arapahoe aquifers to permit and operate an individual well in one of the aquifers at a time, at the option of the Owner, and pursuant to the terms and conditions of the Augmentation Plan. Each Owner will also be conveyed two acre-feet per year of nontributary Laramie-Fox Hills aquifer groundwater as decreed in Case No. 2003CW198, District Court, Water Division 1, (recorded in the Douglas County Clerk and Recorder's Office at Reception # 2006073264), pursuant to the terms and conditions of the Augmentation Plan. The conveyed groundwater is the present and future water supply for the parcel, and will not be sold or leased for any other purpose. Parcels 4, 16, 21, 22, and 23 will be served by exempt wells or wells augmented at the discretion of the Owners of those Parcels and are not subject to this section.

Each Owner of a Parcel will be responsible for obtaining a well permit and construction of the Parcel well and shall be responsible for operation of said well. Wells may be required to be logged, unless a waiver is obtained. All wells will be metered so as to provide information necessary for reporting pursuant to the Augmentation Plan. Wells will be permitted to operate at a rate of flow not to exceed 15 gpm.

Each Owner shall provide any information necessary to enable the Association to provide an accounting of the withdrawals of all wells operating under the Augmentation Plan to the Division Engineer pursuant to paragraph 6.A of the Decree. Owners shall provide to the Association, a total of the annual amount of water withdrawn during the previous calendar year (January 1 through December 31), by the end of the following January. The Association will collect said information and provide a summary of withdrawals from all Upper Dawson aquifer wells for the previous calendar year to the Division Engineer (upon request).

The Declarant assigns to the Association any and all right, interest and responsibilities under the Augmentation Plan, and is relieved of any responsibility for the operation of Parcel wells or enforcement of the Augmentation Plan and the Association shall be obligated to perform the same. By such assignment, the Association will take all necessary actions to ensure protection of the water and well rights for all Owners pursuant to the Augmentation Plan, including pursuing and maintaining all further action required under the Augmentation Plan. Failure of the Association or the Owners to comply with the terms and conditions of the Augmentation Plan may result in an order from the Division engineer's office to curtail or eliminate pumping of the wells.

ARTICLE X  
**SPECIAL DECLARANT RIGHTS AND ADDITIONAL RESERVED RIGHTS**

Section 10.1 Special Declarant Rights. Declarant hereby reserves the right at any time and from time to time, to perform the acts and exercise the rights hereinafter specified (the "Special Declarant Rights"). Declarant's Special Declarant Rights include the following:

(a) Completion of Improvements. The right to complete the road, utility, common driveways and culvert and other improvements of the Common Elements.

(b) Exercise of Development Rights. The right to exercise any Development Right set forth in Article XI of this Declaration.

(c) Sales Management and Marketing. Subject to compliance with County regulations, the right to maintain sales offices, management offices, signs, and advertising of the Project on any of the Parcels and in the Common Elements.

(d) Construction Easements. The right to use easements through the Common Elements for the purpose of making improvements within the Project or within Real Estate which may be added to the Project.

(e) Merger. The right to merge or consolidate the Project with another Project of the same form of ownership.

(f) Control of Association and Board of Directors. While Declarant is in control, the right to appoint or remove any officer of the Association or any Director.

(g) Amendment of Declaration. The right to amend this Declaration in connection with the exercise of any Development Rights.

(h) Signs. The right to maintain signs on any Parcel owned by Declarant and/or the Common elements advertising the Project, subject to compliance with County regulations.

Section 10.2 Additional Reserved Rights. In addition to the Special Declarant Rights set forth in Section 10.1 above, Declarant also reserves the following additional rights (the "Additional Reserved Rights"):

(a) Dedications. The right from time to time to establish by dedication or otherwise, to vacate, and to relocate utility and other easements, including the Common Elements, for purposes including but not limited to roads, paths, equestrian paths, walkways, drainage, and to create other easements, reservations, exceptions and exclusions for the benefit of and to serve the Owners within the Common Elements and/or on any Parcel owned by Declarant and/or other Real Estate owned by Declarant. This reserved right specifically includes, without limiting the foregoing, the right of

Declarant to (i) to convey all or any part of one or more Parcels, and on behalf of the Association, all or any part of the Common Elements, in lieu of condemnation, to Douglas County or the Colorado Division of Transportation for the expansion of State Highway 67 (ii) to grant an easement on, over and across any Parcel for the construction, maintenance, repair and replacement of a monument, project identification or other sign containing the name of and other information about the Project and any necessary electrical lines for the lighting thereof; and (iii) to grant easements on, over, under and across any Parcel for the purpose of the construction, maintenance, repair, replacement and operation of one or more underground water storage tanks and/or alternative water supplies to satisfy requirements of the local fire protection district or the Douglas County Building Department or other appropriate government entity.

(b) Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of parking and/or recreational facilities, which may or may not be a part of the Project for the benefit of the Owners and/or the Association and/or other Real Estate owned by Declarant.

(c) Easement Rights. The rights to an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations arising under this Declaration or the Act.

(d) Other Rights. The right to exercise any Additional Reserved Rights created by any other provision of this Declaration.

(e) View Easement. The right to grant view easements over any Parcel owned by Declarant for the benefit of any other Parcel or any real property adjacent to the Project.

Section 10.3 Limitations on Special Declarant Rights and Additional Reserved Rights. Unless sooner terminated by an amendment to this Declaration executed by the Declarant, any Special Declarant Rights or Additional Reserved Rights may be exercised by the Declarant anywhere in the Project so long as the Declarant (a) holds a Development Right(s); (b) owns any Parcel; (c) holds a Security Interest in any Parcel(s); or (d) for 15 years after the date of recording this Declaration, whichever eventuality grants to Declarant the longest possible period for exercise of Special Declarant Rights and Additional Reserved Rights.

Section 10.4 Interference with Special Declarant Rights. Neither the Association nor any Owners may take any action or adopt any Rule and/or Regulation that will interfere with or diminish any Special Declarant Rights or Additional Reserved Rights without the prior written consent of the Declarant. In the event any controversy, dispute or litigation involving exercise of the reserved Special Declarant Rights by Declarant, this Declaration shall be interpreted so as to give the Declarant the broadest, most flexible Special Declarant Rights allowed by the Act.

Section 10.5 Rights Transferable. Any Special Declarant Rights or Additional Reserved 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 the Records. Such instrument shall be executed by the transferor Declarant and the transferee.

## ARTICLE XI RESERVATION OF EXPANSION AND DEVELOPMENT RIGHTS

Section 11.1 Expansion Rights. Declarant expressly reserves the right, but shall not be obligated, to subject all or any part of the property described in Exhibit C attached hereto and hereby incorporated by reference (the "Expansion Property") to the provisions of this Declaration. The consent of the existing Owners, First Mortgagees or other holders of Security Interests shall not be required for any such expansion, and Declarant may proceed with such expansion without limitation in its sole discretion. In addition, Declarant also expressly reserves the right to add unspecified real estate to the Project as allowed by the Act.

Section 11.2 Development and Withdrawal Rights. Declarant expressly reserves the right to create Parcels and Common Elements, to combine Parcels, to subdivide Parcels, to convert Parcels into Common Elements, and to relocate the boundaries of the Parcels on all or any portion of any Parcel owned by Declarant. Declarant may exercise any or all of the Development Rights reserved in this Declaration at any time with respect to any of the Property. No assurances are made with respect to the boundaries of any Parcels that may be developed or the order in which the Parcels may be developed. Exercise of a Development Right(s) with respect to any one Parcel does not require exercise of a Development Right(s) on any other Parcel. No assurances are made that any further development will occur. If all or any part of the Expansion Property is submitted to this Declaration, this right to reserve property for future development shall apply to such property as well. Declarant expressly reserves the right to withdraw all or any portion of any Parcel from the Project by recording a document evidencing such withdrawal in the records; provided, however, that no Parcel may be withdrawn after it has been conveyed to a Purchaser.

Section 11.3 Supplemental Declaration. If Declarant elects to submit the Expansion Property, or any part thereof, to this Declaration, or to subdivide or to convert Parcels, Declarant shall record a "Supplement" to this Declaration annexing such Expansion Property into the Project. The Supplement shall contain at a minimum the legal description of the Expansion Property so submitted, and the Allocated Interest appurtenant to each Parcel in the expanded Project shall be as set forth in Section 4.2 above. The Supplement may contain such other provisions, restrictions and requirements relating to the Expansion Property or Additional Improvements as Declarant deems necessary or desirable. Declarant may contemporaneously with the Supplement, file a Supplement to the Survey showing matters allowed by this Article XI, including the location of Common Elements and Limited Common Elements.

Section 11.4 Interpretation. Recording of Supplements in the Records shall automatically (a) vest in each existing Owner the reallocated Allocated Interests appurtenant to his Parcel and (b) vest in each existing holder of a Security Interest a perfected Security Interest in the reallocated Allocated Interests appurtenant to the encumbered Parcel. Additionally, the



easements, covenants, conditions, and restrictions set forth in this Declaration shall automatically be extended to encompass and to refer to the Real Estate, as expanded. The Expansion Property, or any part thereof shall be added to and become a part of the Property for all purposes. All conveyances shall be effective to transfer rights in all Common Elements as expanded. Reference to this Declaration in any instrument shall be deemed to include all Supplements and amendments thereto without specific reference thereto.

Section 11.5 Maximum Number of Parcels. The maximum number of Parcels in the Project shall not exceed the maximum number of Parcels allowed by any governmental entity having jurisdiction over the Property, pursuant to any development plan for the Real Estate and the Expansion Property. Declarant shall not be obligated to expand the Project beyond the number of Parcels initially submitted in this Declaration. Any reference in this Declaration to Parcels that may be created refers to the maximum number of Parcels allowed in this Section 11.5, including Parcels that may be created on the Expansion Property.

Section 11.6 Construction Easement. Declarant expressly reserved the right to perform warranty work, repairs and construction, and to store materials in secure areas in Parcels and within the Common Elements, and reserves the right to control such work and repairs, including the right of access thereto, until completion. All work may be performed by Declarant or its agents without the consent or approval of the Association or any Owner or First Mortgagee or holder of a Security Interest. Declarant's easement described herein shall be extended as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across or under the Property not designated as reserved for future development in this Declaration for the purpose of furnishing utility and other services to any of the Property reserved for future development and/or other real estate owned by Declarant. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey improvements within those easements anywhere in the Common Elements. If Declarant grants any such easement, Exhibit B to this Declaration will be amended to include a reference to the recorded easement.

Section 11.7 Reciprocal Easements. If all or part of the Expansion Property is not submitted to this Declaration, or if property is withdrawn from the Project (the "Withdrawn Property"):

(a) the owner(s) of expansion Property and/or Withdrawn Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Project; and

(b) The Owner(s) shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Expansion Property and Withdrawn Property.

Declarant shall prepare and record in the Records whatever documents are necessary to evidence such easements and shall amend Exhibit B to this Declaration to include reference to the

recorded easement(s). Such recorded easement(s) shall specify that the owner(s) of the Expansion Property and the Withdrawn Property and the Owners in the Project shall be obligated to pay a proportionate share of the cost of the operation and maintenance of any easements utilized by either one of them on the other's property upon such reasonable basis as the Declarant shall establish in the easement(s). Preparation and recordation by Declarant of an easement pursuant to this Section shall conclusively determine the existence, location and extent of the reciprocal easements that are necessary or desirable as contemplated by this Section.

Section 11.8 Termination of Expansion and Development Rights. The Expansion and Development Rights reserved to Declarant for itself, its successors and assigns, will expire 15 years after the date of recording this Declaration in the Records, unless the Expansion Rights and the Declaration Rights are reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Board of Directors may impose on the subsequent exercise of the Expansion Rights and Development Rights by Declarant as provided by the Act. Subject to the Association's right of reinstatement, upon the expiration or other termination of the Expansion Rights and the Development Rights, any Parcel then subject to Development Rights shall become Common Elements.

Section 11.9 Interference With Expansion or Development Rights. Neither the Association nor any Owner may take any action or adopt any Rule and Regulation that will interfere with or diminish any Expansion Rights or Development Rights reserved by this Article without the prior written consent of the Declarant. In the event of any controversy, dispute or litigation involving exercise of the reserved Development Rights by Declarant, this Declaration shall be interpreted so as to give the Declarant the broadest, most flexible Development Rights allowed by the Act. "

Section 11.10 Transfer of Expansion and Development Rights. Any Expansion Rights or Development 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 the Records. Such instrument shall be executed by the transferor Declarant and the transferee.

## ARTICLE XII FIRST MORTGAGEE PROTECTIONS

Section 12.1 Introduction. This Article establishes certain standards and covenants which are for the benefit of First Mortgagees. This Article XII is supplemental to, and not in substitution for, any other provisions of this Declaration, but in the case of any conflict, this Article shall control.

Section 12.2 Percentage of First Mortgagees. Unless specifically provided otherwise, wherever in this Declaration the approval or consent of the First Mortgagees is required, it shall mean the approval or consent of 67% of First Mortgagees. Each First Mortgagee shall be entitled to one vote for each Parcel in which a Security Interest is held by such First Mortgagee.

Section 12.3 Notice of Actions. If requested in writing to do so, the Association shall give prompt written notice of the following to each First Mortgagee making such request:

(a) any condemnation loss or any casualty loss which affects a material portion of the Common Elements or any Parcel in which an interest is held by the Eligible First Mortgagee;

(b) any delinquency in the payment of Assessments which remains uncured for 60 days by a Owner whose Parcel is encumbered by a Security Interest held by such Eligible First Mortgagee;

(c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) any proposed action which would require the consent of First Mortgagees as set forth in this Article;

(e) any amendment to this Declaration that:

(1) alters the formulas for Allocated Interests set forth in Section 4.2 above; or

(2) amends the provisions of Section 8.7 or this Article XII.

(f) any adjustment rendered by or against the Association.

Section 12.4 Consent Required. The Association may not take any of the following actions, except as such rights have specifically reserved by Declarant under the provisions of this Declaration, without the consent of the First Mortgagees:

(a) conveyance or encumbrance of the Common Elements (provided, however, that the granting of easements for public utilities, for construction and maintenance of roads within the Project, or for other purposes provided for in this Declaration will not be deemed a transfer within the meaning of this clause;

(b) restoration or repair of the Project (after hazard damage or partial condemnation in a manner other than that specified in this Declaration);

(c) termination of this Declaration for reasons other than substantial destruction or condemnation, subject to the approval percentages required for such termination;

(d) merger of the Project with any other common interest community; or

(e) any action not to repair or replace the Common Elements except as permitted in this Declaration.

Section 12.5 Notice of Objection. Except as required by the Act with respect to notices of amendments to this Declaration, unless a First Mortgagee provides the Secretary of the Association with written notice of its objection, if any, to any proposed action requiring the approval of First Mortgagees within 30 days following the receipt of notice of such proposed amendment or action, the First Mortgagee will be deemed conclusively to have consented to or approved the proposed amendment or action.

#### Section 12.6 First Mortgagees' Rights.

(a) Advances. First Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Parcels or improvements thereon, 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. First Mortgagees making such payments shall be owed immediate reimbursement from the Owner.

(b) Cure Rights. First Mortgagees shall be entitled to cure any delinquency of the Owner encumbered by a First Mortgage in the payment of Assessments. In that event, the First Mortgagee shall be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

Section 12.7 Limitations on First Mortgagee's Rights. No requirement for approval or consent by a First Mortgagee provided in this Article shall operate to:

(a) deny or delegate control over the general administrative affairs of the Association by the Owners or the Board of Directors;

(b) prevent the Association or Board of Directors from commencing, intervening and/or settling any legal proceeding; or

(c) prevent any insurance trustee or the Association from receiving and distributing any insurance proceeds in accordance with the requirements of Article XII.

Section 12.8 Special Declarant Rights. No provision or requirement of this Article XII shall apply to any Special Declarant Rights reserved to Declarant in this Declaration.

### ARTICLE XIII DURATION OF COVENANTS; AMENDMENT AND TERMINATION

Section 13.1 Term. This Declaration and any amendments or supplements to it shall remain in effect from the date of recordation for a period of 50 years. Thereafter, these

Covenants shall be automatically extended for five successive periods of ten years each, unless otherwise terminated or modified as provided in this Article XIII.

Section 13.2 Amendment of Declaration. Except to the extent that this Declaration and the Act expressly permit or require amendments that may be executed by the Declarant or by the Association, this Declaration may be amended only by a vote or agreement of Owners to which at least 67% of the votes in the Association are allocated.

Section 13.3 Execution of Amendments: Expenses. Any amendment shall be prepared, executed and recorded either by the Declarant or by an officer of the Association designated for that purpose or, in the absence of a designation, by the President of the Association. All expenses associated with preparing and recording an amendment to this Declaration shall be the sole responsibility of (a) any Owners desiring an amendment as provided for in this Declaration or the Act; (b) the Declarant, to the extent the right to amend this Declaration is reserved to the Declarant and exercised by the Declarant; and (c) in all other cases by the Association as a Common Expense.

Section 13.4 When Modifications Permitted. Notwithstanding the provision of the Section above, no amendment or termination of this Declaration shall be effective in any event during the Period of Declarant Control, unless the written approval of Declarant is first obtained.

Section 13.5 Recording of Amendments. Any amendment to this Declaration made in accordance with this Article XIII shall be immediately effective upon the recording of the executed amendment in the Records together with a duly authenticated certificate of the Declarant or the Secretary of the Association stating that the required vote of Owners, if any, and required consents of First Mortgagees and/or Eligible First Mortgagee, as applicable, were obtained and are on file in the office of the Association.

#### ARTICLE XIV MISCELLANEOUS

Section 14.1 Violations of Law. Any violation of any federal, state, municipal, or local law, ordinance, rule, or regulation pertaining to the ownership, occupation, or use of any property within the Project is hereby declared to be a violation of this Declaration and shall be subject to any and all enforcement procedures set forth in this Declaration.

Section 14.2 Disputes and Enforcement of Project Documents.

(a) Enforcement by Self-Help. Declarant, the Association, or any authorized agent of either of them may enforce by self-help any of the provisions, covenants, conditions, restrictions, and equitable servitudes contained in this Declaration to the fullest extent permitted by this Declaration and the law.

(b) Mediation. If a dispute arises relating to this Declaration, the Articles of Incorporation, the Bylaws, or any other matter relating to the governance of the Project between the Owners or between Declarant and the Association or any Owner ("Dispute"),

the parties thereto shall first proceed in good faith to resolve the matter by mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the Dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the Dispute must agree before any settlement is binding. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate if the entire Dispute is not resolved within 30 days after the date written notice requesting mediation is sent by one party to the other(s) (the "Mediation Period").

(c) Arbitration. Any Dispute that is not settled prior to the expiration of the Mediation Period shall be settled by binding arbitration administered by an arbitrator (such as the Judicial Arbitrator Group or similar arbitration organization) mutually agreed upon by the parties in accordance with the American Arbitration Association Commercial Arbitration Rules and shall be held in the Denver metropolitan area. The arbitrator shall be a person with a minimum of five years experience in managing professional master community projects. The arbitrator shall have the power (i) to enjoin conduct judged to be in violation of this Declaration, the Articles of Incorporation, or the Bylaws; (ii) order specific performance; and (iii) award damages to any party. A judgment upon an award rendered by the arbitrator may be entered in any court having jurisdiction. The party initiating arbitration shall give written notice of his decision to arbitrate by providing a specific statement setting forth the nature of the Dispute, the amount involved, and the remedy sought. The arbitrator shall award to the prevailing party, if any, all of its costs and expenses including attorney's fees, arbitrator's fees, and out-of-pocket expenses of any kind. The term "prevailing party" means the party whose position is most nearly upheld in arbitration. (For example, the prevailing party would be the party who is required to pay \$1,000.00 in the arbitration proceeding where such party had, prior to the commencement of the arbitration, offered \$500.00 by way of settlement and the opposing party, refusing such offer, had claimed entitlement to \$10,000.00). The consideration of the parties to be bound by arbitration is not only the waiver of access to determination by a court and/or jury, but also the waiver of any rights to appeal the arbitration finding. Declarant, the Association, and each Owner expressly consent to arbitration as their sole and exclusive remedy, and expressly waive any right they may have to seek resolution of any Dispute in any court of law or equity, and any right to trial by judge or jury.

(d) Costs and Fees of Collecting Past Due Assessments. Notwithstanding the foregoing, if an Owner fails to pay Assessments or any other sums due to the Association in a timely manner, the Association may require reimbursement for collection costs and reasonable attorneys' fees and costs incurred as a result of such failure without the necessity of commencing formal legal proceedings.

Section 14.3 Non-waiver. Failure by Declarant, the Association, or any Owner, Occupant or Eligible First Mortgagee to enforce any covenant, condition, restriction, easement, reservation, right-of-way, or other provision contained in the Project Documents shall in no way or event be deemed to be a waiver of the right to do so thereafter.

Section 14.4 Severability. Provisions of this Declaration shall be deemed to be independent and severable, and the invalidity of any one or more of the provisions of it by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which provisions shall remain in full force and effect. Any provision which would violate the rule against perpetuities and the rule prohibiting unlawful restraints on alienation shall be construed in a manner as to make this Declaration valid and enforceable.

Section 14.5 Number and Gender. Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include all genders.

Section 14.6 Captions. The captions to the Articles and Sections and the Table of Contents at the beginning of this Declaration are inserted only as a matter of convenience and for reference, and are in no way to be construed to define, limit, or otherwise describe the scope of this Declaration or the intent of any provision of this Declaration.

Section 14.7 Conflicts in Project Documents. In case of conflicts between the provisions in this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In case of conflicts in the provisions in the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control. In case of conflicts between the provisions of any rules and regulations and the Declaration, Articles of Incorporation or the Bylaws, the provisions of the Declaration, Articles of Incorporation, or Bylaws, as applicable, shall control.

Section 14.8 Vesting of Interest. Any interest in property granted under this Declaration shall vest, if at all, on or before the date of the death of the survivor of the now living children of President George W. Bush, plus 21 years.

Section 14.9 Exhibits. All the Exhibits attached to and described in this Declaration are incorporated in this Declaration by this reference.

Section 14.10 Choice of Law. This Declaration shall be construed and interpreted in accordance with the Laws of the State of Colorado. The prevailing party in any litigation relating to this Declaration shall be entitled to an award of its reasonable costs and attorneys fees.

(SIGNATURE PAGES TO FOLLOW)

**DECLARANT:**

COLORADO AG PROPERTIES LP,  
a Colorado limited partnership

By: TEJE, Inc., a Colorado corporation, as  
General Partner

By: Thomas B. Rieber  
Thomas B. Rieber, its Vice President

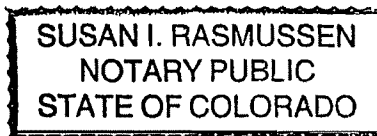
STATE OF COLORADO    )  
                                  ) ss.  
COUNTY OF Douglas )

The above and foregoing Declaration of Covenants, Conditions, and Restriction Bear's Den was acknowledged before me this 19<sup>th</sup> day of September 2006, by Thomas B. Rieber as Vice President of TEJE, Inc. a Colorado corporation as General Partner of Colorado Ag Properties LP, a Colorado limited partnership

WITNESS my hand and official seal.

My commission expires: 9-1-07

Susan I. Rasmussen  
Notary Public



My Commission Expires Sept. 1, 2007



[Signature]  
John Shook

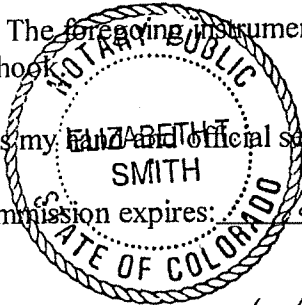
[Signature]  
Emily Shook

State of Colorado )  
 ) ss.  
County of Arapahoe )

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of Sept, 2006, by John Shook.

Witness my hand and official seal.

My commission expires: 10/11/07



My Commission Expires 10/11/07

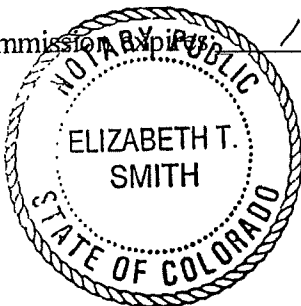
[Signature]  
Notary Public

State of Colorado )  
 ) ss.  
County of Arapahoe )

The foregoing instrument was acknowledged before me this \_\_\_ day of August, 2006, by Emily Shook.

Witness my hand and official seal.

My commission expires: 10/11/2007



My Commission Expires 10/11/2007

[Signature]  
Notary Public

William M. Thomas  
William M. Thomas

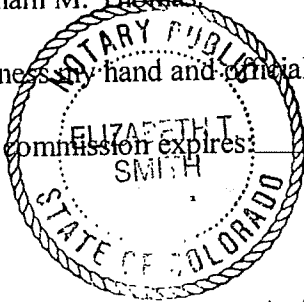
Karen J. Thomas  
Karen J. Thomas

State of Colorado )  
 ) ss.  
County of Arapaho )

The foregoing instrument was acknowledged before me this 18<sup>th</sup> Sept day of August, 2006, by William M. Thomas.

Witness my hand and official seal.

My commission expires: 10/11/2007



My Commission Expires 10/11/07

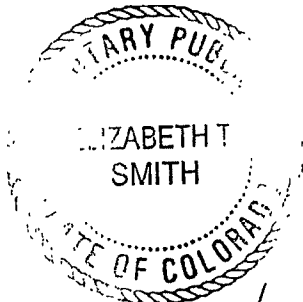
Elizabeth T. Smith  
Notary Public

State of Colorado )  
 ) ss.  
County of Arapaho )

The foregoing instrument was acknowledged before me this 18<sup>th</sup> Sept day of August, 2006, by Karen J. Thomas.

Witness my hand and official seal.

My commission expires: 10/11/2007



My Commission Expires 10/11/2007

Elizabeth T. Smith  
Notary Public



## EXHIBIT A

### Legal Description of the Real Estate

TRACT A:

THAT PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 7 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 7 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN:  
THENCE SOUTH 00 DEGREES 19 MINUTES 27 SECONDS EAST ALONG THE EAST LINE OF SAID NORTHWEST 1/4 NORTHEAST 1/4, A DISTANCE OF 256.94 FEET, TO THE NORTHWESTERLY LINE OF STATE HIGHWAY 67;  
THENCE THE FOLLOWING SIX (6) COURSES ALONG SAID STATE HIGHWAY 67:  
1. SOUTH 31 DEGREES 24 MINUTES 58 SECONDS WEST, A DISTANCE OF 936.33 FEET TO A POINT OF CURVATURE:  
2. THENCE 280.92 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 2815.00 FEET, AN INTERIOR ANGLE OF 05 DEGREES 43 MINUTES 04 SECONDS TO A POINT:  
3. THENCE SOUTH 37 DEGREES 07 MINUTES 58 SECONDS WEST, A DISTANCE OF 74.19 FEET TO A POINT OF CURVATURE:  
4. THENCE 703.81 FEET ALONG SAID CURVE TO THE LEFT, HAVING A RADIUS OF 2915.00 FEET AN INTERIOR ANGLE OF 13 DEGREES 50 MINUTES 01 SECONDS TO A POINT:  
5. THENCE SOUTH 23 DEGREES 17 MINUTES 58 SECONDS WEST A DISTANCE OF 405.00 FEET TO A POINT OF CURVATURE:  
6. THENCE 215.20 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 1860.00 FEET, AN INTERIOR ANGLE OF 06 DEGREES 37 MINUTES 44 SECONDS TO A POINT ON THE WEST LINE OF THE NORTHWEST 1/4 NORTHEAST 1/4;  
THENCE NORTH 00 DEGREES 21 MINUTES 52 SECONDS WEST ALONG SAID WEST LINE A DISTANCE OF 2167.74 FEET TO A POINT, BEING 300 FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHWEST 1/4 NORTHEAST 1/4 SECTION 27;  
THENCE NORTH 75 DEGREES 03 MINUTES 28 SECONDS EAST A DISTANCE OF 1359.16 FEET TO THE POINT OF BEGINNING.

TRACT B:

A PART OF THE NORTHEAST AND SOUTHEAST 1/4 OF SECTION 27, TOGETHER WITH THE EAST 1/2 OF SECTION 34, TOWNSHIP 7 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 1321.22 FEET SOUTH OF THE NORTHWEST CORNER OF SECTION 27, TOWNSHIP 7 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN:  
THENCE SOUTH 00 DEGREES 24 MINUTES 46 SECONDS EAST ALONG THE EAST LINE OF SAID NORTHEAST 1/4, A DISTANCE OF 1327.65 FEET TO THE EAST 1/4 CORNER OF SAID SECTION 27;  
THENCE SOUTH 00 DEGREES 03 MINUTES 16 SECONDS EAST ALONG SAID EAST LINE A DISTANCE OF 2646.74 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 27;  
THENCE SOUTH 00 DEGREES 51 MINUTES 51 SECONDS EAST, ALONG THE EAST LINE OF SECTION 34, A DISTANCE OF 2639.05 FEET TO THE EAST 1/4 CORNER OF SAID SECTION 34;  
THENCE SOUTH 00 DEGREES 15 MINUTES 53 SECONDS EAST CONTINUING ALONG THE EAST LINE OF SECTION 34 A DISTANCE OF 2624.60 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 34;

THENCE NORTH 89 DEGREES 53 MINUTES 24 SECONDS WEST ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 34. DISTANCE OF 2641.67 FEET TO THE SOUTH 1/4 CORNER OF SAID SECTION 34:

THENCE NORTH 00 DEGREES 18 MINUTES 58 SECONDS WEST. ALONG THE WEST LINE OF THE EAST 1/2 OF SAID SECTION 34. A DISTANCE OF 5241.66 FEET TO THE NORTH 1/4 CORNER OF SAID SECTION 34:

THENCE NORTH 00 DEGREES 21 MINUTES 54 SECONDS WEST. ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SECTION 27. A DISTANCE OF 2581.91 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF STATE HIGHWAY 67:

THENCE THE FOLLOWING FIVE (5) COURSES ALONG SAID SOUTHEASTERLY LINE OF STATE HIGHWAY 67:

1. THENCE 387.00 FEET ALONG SAID NON TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1960.00 FEET. AN INTERIOR ANGLE OF 11 DEGREES 18 MINUTES 47 SECONDS. A CHORD OF 386.37 FEET WHICH BEARS NORTH 28 DEGREES 57 MINUTES 22 SECONDS EAST TO A POINT.

2. THENCE NORTH 23 DEGREES 17 MINUTES 58 SECONDS EAST A DISTANCE OF 405.00 FEET TO A POINT OF CURVATURE:

3. THENCE 679.63 FEET ALONG SAID CURVE TO THE RIGHT HAVING A RADIUS OF 2815.00 FEET AN INTERIOR ANGLE OF 13 DEGREES 50 MINUTES 01 SECONDS:

4. THENCE NORTH 37 DEGREES 07 MINUTES 58 SECONDS EAST. A DISTANCE OF 74.19 FEET TO A POINT OF CURVATURE:

5. THENCE 118.15 FEET ALONG SAID CURVE TO THE LEFT HAVING A RADIUS OF 2915.00 FEET AN INTERIOR ANGLE OF 02 DEGREES 19 MINUTES 20 SECONDS TO A POINT:

THENCE SOUTH 54 DEGREES 12 MINUTES 24 SECONDS EAST A DISTANCE OF 28.93 FEET TO A POINT OF CURVATURE:

THENCE 71.69 FEET ALONG SAID CURVE TO THE LEFT HAVING A RADIUS OF 150.00 FEET AN INTERIOR ANGLE OF 27 DEGREES 23 MINUTES 07 SECONDS:

THENCE SOUTH 81 DEGREES 35 MINUTES 31 SECONDS EAST. A DISTANCE OF 68.22 FEET TO A POINT OF CURVATURE:

THENCE 90.12 FEET ALONG SAID CURVE TO THE RIGHT HAVING A RADIUS OF 250.00 FEET AN INTERIOR ANGLE OF 20 DEGREES 39 MINUTES 17 SECONDS:

THENCE SOUTH 60 DEGREES 56 MINUTES 14 SECONDS EAST. A DISTANCE OF 203.31 FEET TO A POINT:

THENCE SOUTH 29 DEGREES 03 MINUTES 46 SECONDS WEST A DISTANCE OF 10.00 FEET TO A POINT OF CURVATURE:

THENCE 169.11 FEET ALONG SAID NONTANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 215.00 FEET. AN INTERIOR ANGLE OF 45 DEGREES 03 MINUTES 59 SECONDS. A CHORD OF 164.78 FEET WHICH BEARS SOUTH 38 DEGREES 24 MINUTES 15 SECONDS EAST TO A

POINT:

THENCE SOUTH 74 DEGREES 42 MINUTES 25 SECONDS EAST. A DISTANCE OF 136.15 FEET TO A POINT:

THENCE NORTH 40 DEGREES 17 MINUTES 35 SECONDS EAST. A DISTANCE OF 640.00 FEET TO A POINT:

THENCE SOUTH 27 DEGREES 42 MINUTES 25 SECONDS EAST A DISTANCE OF 211.66 FEET TO A POINT:

THENCE NORTH 88 DEGREES 53 MINUTES 52 SECONDS EAST. A DISTANCE OF 660.03 FEET TO THE POINT OF BEGINNING.

COUNTY OF DOUGLAS, STATE OF COLORADO

## EXHIBIT B

### Easements and Licenses

1. Easement Deed and Agreement dated August 30, 2006, and recorded on August 31, 2006, in the office of the Clerk and Recorder for Douglas County, Colorado, at Reception No. 2006075478.
2. Landscape Easement Agreement dated September 13, 2006 to be recorded in the Records after the recordation of this Declaration.
3. Water Storage Easement Agreement dated September 13, 2006 to be recorded in the Records after the recordation of this Declaration.
4. Right of Way Easement recorded in the Records on August 30, 2004 at Reception No. 2004090331.
5. Right of Way Easement recorded in the Records on November 12, 2004 at Reception No. 2004115878.
6. Easement Deed and Agreement recorded in the Records on February 3, 2006 at Reception No. 2006009969.
7. Permanent Easement recorded in the Records on August 15, 1967 in Book 178 at Page 97.

## EXHIBIT C

### Legal Description of Expansion Property

A tract of land situated in Section 26 and 35 Township 7 South, Range 68 West of the 6<sup>th</sup> Principal Meridian, Douglas County, Colorado, more particularly described as follows.

Beginning at the Northwest corner of section 35 and considering the West line of the Northwest  $\frac{1}{4}$  of Section 35 to bear S 00°51'51"E with all bearings contained herein relative thereto;

Thence S 00°51'51"E along said West line a distance of 783.49 feet;

Thence N 89°49'31"E a distance of 2654.74 feet to the East line of the Northwest  $\frac{1}{4}$  of Section 35.

Thence N 00°20'43"W a distance of 793.05 feet to the Northeast corner of said Northwest  $\frac{1}{4}$ ;

Thence N 00°25'52"W a distance of 1322.68 feet to the Northeast corner of the South  $\frac{1}{2}$  Southwest  $\frac{1}{4}$  of section 26;

Thence S 89°41'16"W a distance of 2653.16 feet to the Northwest corner of said South  $\frac{1}{2}$  Southwest  $\frac{1}{4}$ ;

Thence S 00°03'20"E a distance of 1324.20 feet to the true point of beginning;

Containing 128.90 acres more or less.

This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80104.

# Exhibit C

4564 N. Hwy 67 Sedalia, CO. 80135 Also Known AS;

A tract of land situated in the Northeast 1/4 of Section 27, Township 7 South, Range 68 West of the 6th Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the southeast corner of the Northeast 1/4 of Section 27 and considering the East line of said Northeast 1/4 to bear North 00°24'46" West with all bearings contained herein relative thereto;

thence North 00°24'46" West along said East line a distance of 1327.65 feet;

thence South 88°53'52" West a distance of 560.03 feet;

thence North 27°42'25" West a distance of 211.66 feet to the true point of beginning;

thence South 40°17'35" West a distance of 640.00 feet;

thence North 74°42'25" West a distance of 136.15 feet;

thence Northwesterly along the arc of a curve to the left a distance of 169.11, said curve has a radius of 215.00 feet, a central angle of 45°03'59" and a chord that bears North 38°24'15" West a distance of 164.78 feet;

thence North 29°03'46" East a distance of 10.00 feet;

thence North 60°56'14" West a distance of 203.31 feet to a point of curve;

thence Northwesterly along the arc of a curve to the left a distance of 90.12 feet, said curve has a radius of 250.00 feet and a central angle of 20°39'17" to a point of tangent;

thence North 81°35'31" West along said tangent a distance of 68.22 feet to a point of curve;

thence Northwesterly along the arc of a curve to the right a distance of 71.69 feet, said curve has a radius of 150.00 feet and a central of 27°23'07" to a point of tangent;

thence North 54°12'24" West along said tangent a distance of 28.93 feet to the Southeasterly right of way line of Highway 67;

thence Northeasterly along said Southeasterly right of way line along the arc of a curve to the left a distance of 172.75 feet, said curve has a radius of 2915.00 feet, a central angle of 03°23'44" and a chord that bears North 33°06'50" East a distance of 172.72 feet;

thence North 31°24'58" East along said Southeasterly right of way line a distance of 848.47 feet;

thence south 89°42'16" East a distance of 139.54 feet;

thence South 27°42'25" East a distance of 830.00 feet to the point of beginning.

This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80104.



## **Amendment to the Bear's Den Declaration of Covenants, Conditions and Restriction**

This Amendment is being made by the undersigned Bear's Den Rural Site Plan Property Owners and the Successor Declarant, hereafter (the "**Owners**"), on this 1st day of March, 2011. This Amendment shall be effective upon its recordation at the office of Records in the County of Douglas State of Colorado.

### **RECITALS**

**Whereas**, on September 19, 2006 at Reception No. 2006080842, the Bear's Den Declaration of Covenants, Conditions and Restrictions, (the "**Declaration**"), was recorded in the real property records of Douglas County, Colorado; and

**Whereas**, on September 19, 2006 at Reception No. 2006080841 the Bear's Den Rural Site Plan, hereafter (the "**RSP**"), was recorded in the real property records of Douglas County, Colorado; and

**Whereas**, on August 12, 2008 at Reception No. 2008056574 the Assignment of Reserved and Special Declarant Rights, (the "**Successor Declarant**"), was recorded in the real property records of Douglas County, Colorado; and

**Whereas**, on August 31, 2010 at Reception No. 2010054542 the Bear's Den Rural Site Plan 2<sup>nd</sup> Exemption, (the "**2<sup>nd</sup> Exemption**"), was recorded in the real property records of Douglas County, Colorado; and

**Whereas**, on August 31, 2010 at Reception No. 2010054543 the Supplemental Declaration to the Bear's Den Declaration of Covenants, Conditions and Restrictions, (the "**Supplemental**"), was recorded in the real property records office of Douglas County, Colorado; and

**Whereas**, the 2<sup>nd</sup> Exemption and the Supplemental created the following new parcels within Bear's Den Rural Site Plan: 5A, 18A, 16A, 16B, 22A, and 22B; and

**Whereas**, the 2<sup>nd</sup> Exemption and the Supplemental deleted the following parcels within Bear's Den Rural Site Plan: 5, 6, 18, 19, 16 and 22; and

Return to: Tom Rieber and Erica Rieber  
3608 Bear's Den Drive  
Sedalia, Co 80135

TH

**Whereas**, pursuant to Article XIII Section 13.2 of the Declaration, this amendment has been approved by agreement of at least 67% of the property Owners; and

**Whereas**, the undersigned Owners desire to make the following amendments to the Bear's Den Declaration of Covenants, Conditions and Restrictions; and

**Now, Therefore**, the Owners hereby declare as follows:

1. Section 9.5 of Article IX of the Declaration is hereby deleted and replaced with the following:

Section 9.5 Animals. Except where otherwise provided for in the Declaration, the RSP, the 2<sup>nd</sup> Exemption or the Supplemental, the number of horses and/or cattle allowed on each parcel shall be as follows: Parcels 2, 7, 8, 12, 13, 17 and 20 shall be allowed to keep up to a combined total of 5 horses or cattle and grazing is prohibited on these parcels. Parcels 1, 3, 5A, 9, 10, 11, 14, 15 and 16B shall be allowed to keep up to a combined total of 10 horses or cattle and grazing is permitted. Parcels 4, 21 and 22B shall be allowed to keep up to a combined total of 15 horses or cattle and grazing is permitted. Parcel 16A and 22A shall be allowed to keep up to a combined total of 20 horses or cattle and grazing is permitted. Parcel 23 shall be allowed to keep up to a combined total of 25 horses or cattle and grazing is permitted. Animals under the age of 6 months shall not count towards the total number of allowed animals. Other types of small animals such as chickens and rabbits shall be allowed per county regulations. All animals shall be kept in accordance with Douglas County regulations and other such rules and regulations as may be imposed by the Bears Den Planning and Architectural Standards and Rules and Regulations from time to time. All domestic household pets shall be confined to their Owners' premises and shall not be permitted to become an annoyance or nuisance to other Owners. All horses and cattle shall be fenced and confined to their Owners' Parcel, shall not be permitted to become an annoyance or nuisance to other Owners, shall not be permitted to overgraze any portion of the Parcel (except that pens and corrals may be de-vegetated), and shall be kept in strict compliance with Colorado and Douglas County laws, ordinances and regulations regarding horses and other livestock. Owners shall

construct pens and corrals for any horses or livestock kept on any Parcel and such construction shall be in accordance with the Architectural Standards and Rules and Regulations. Pens and corrals shall be maintained and cleaned regularly. Owners shall remove or spread manure so that no nuisance is caused to the other Owners. Notwithstanding the foregoing, this section 9.5 shall not prohibit Owners from leasing their parcels for agricultural purposes.

2. Section 9.10 of Article IX of the Declaration is hereby deleted and replaced with the following:

Section 9.10 Uses on Parcels 4, 16A, 21, 22A, 22B and 23. Subject to compliance with the Douglas County Zoning Resolution, the following special uses are granted to Parcels 4, 16A, 21, 22A, 22B and 23, notwithstanding any other provisions in this Declaration or rules and regulations promulgated hereunder:

(a) Commercial rearing and boarding of domestic farm and ranch animals.

(b) Ranching and farming operations typical of those engaged in by farmers and ranchers including the sowing, harvesting and selling of crops, the grazing of farm and ranch type animals, and irrigation.

(c) One windmill and stock tank shall be allowed outside of the building envelope so long as they are located in compliance with all setback requirements.

(d) The operation of motor vehicles anywhere on the parcels for use in farming, hunting and ranching operations.

(e) To harvest game animals as permitted within the rules and regulations set forth by the Colorado Division of Wildlife.

(f) All others uses allowed within the Agricultural One District at the time that any such use(s) are requested.

Except as specifically stated herein, Parcels 4, 16A, 21, 22A, 22B and 23 remain subject to all other provisions of the Declaration.

3. Sections 9.11, 9.12 and 9.13 of Article IX of the Declaration are hereby deleted.
4. Section 9.15 of Article IX of the Declaration is hereby deleted and replaced with the following:

Section 9.15 Compliance with Water Decrees. Each Owner shall comply fully with all obligations, restrictions and requirements set forth in all Findings of Fact, Conclusions of Law, and Rulings of the Referee, Judgments and Decrees applicable to the Property. Specifically, Parcels 1, 2, 3, 5A, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16B, 17, 18A, and 20, will be served by individual wells in the Denver or Arapahoe aquifers pursuant to an augmentation plan decreed in Case No. 2004CW10, District Court, Water Division 1, as recorded in the Douglas County Clerk and Recorder's Office at Reception # 2006073263 (the "Augmentation Plan"). (The terms and conditions of the well supplying Parcel 2 may be from another decree, but will have the same conditions of use as Case No. 2004CW10, and the terms and conditions of this section still apply to that Parcel). The Owners of these Parcels will be conveyed the right to withdraw one acre-foot per year in both the Denver and Arapahoe aquifers to permit and operate an individual well in one of the aquifers at a time, at the option of the Owner, and pursuant to the terms and conditions of the Augmentation Plan. Each Owner will also be conveyed two acre-feet per year of non-tributary Laramie-Fox Hills aquifer groundwater as decreed in Case No. 2003CW198, District Court, Water Division 1, (recorded in the Douglas County Clerk and Recorder's Office at Reception # 2006073264), pursuant to the terms and conditions of the Augmentation Plan. The conveyed groundwater is the present and future water supply for the parcel, and will not be sold or leased for any other purpose. Parcels 4, 16A, 21, 22A, 22B and 23 will be served by exempt wells or wells augmented at the discretion of the Owners of those Parcels and are not subject to this section.

(SIGNATURE PAGES TO FOLLOW)

SIGNATURE PAGE ATTACHMENT EXHIBIT

ADDRESS:

Sharon S. Armstrong

Sharon S. Armstrong

Robert C. Armstrong

Robert C. Armstrong

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

STATE OF Colorado )  
COUNTY OF Douglas )ss

The foregoing instrument was acknowledged before me on this day of 12/21/11 by Sharon S. Armstrong & Robert C. Armstrong

Witness my hand and seal. 12/21/11  
My commission expires: \_\_\_\_\_

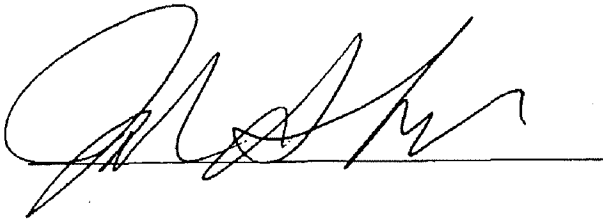
KARI JURCZEWSKY  
NOTARY PUBLIC  
STATE OF COLORADO

My Commission Expires 03/29/2014

Kari Jurczewsky  
Notary Public



SIGNATURE PAGE ATTACHMENT

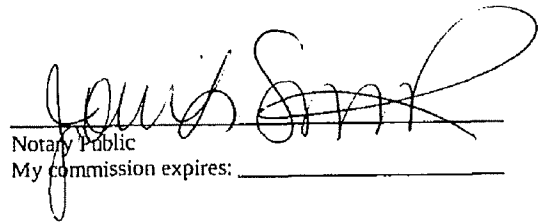


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State of COLORADO )  
County of DOUGLAS )ss  
)

The foregoing instrument was acknowledged before me on this day of Nov. 30<sup>th</sup> 2011 by John Shook

\_\_\_\_\_



Notary Public  
My commission expires: \_\_\_\_\_

JONI L STIMITS  
NOTARY PUBLIC  
STATE OF COLORADO  
My Commission Expires 10/11/2015

SIGNATURE PAGE ATTACHMENT

Bruce Kaiman

Athena Kaiman

State of COLORADO )  
County of DOUGLAS )ss  
)

The foregoing instrument was acknowledged before me on this day of NOV. 28 2011 by Bruce Kaiman  
AND Athena Kaiman

Joni L Stimits  
Notary Public  
My commission expires: \_\_\_\_\_

JONI L STIMITS  
NOTARY PUBLIC  
STATE OF COLORADO  
My Commission Expires 10/11/2015



SIGNATURE PAGE ATTACHMENT

William M. Thomas

State of COLORADO )  
County of DOUGLAS )ss  
)

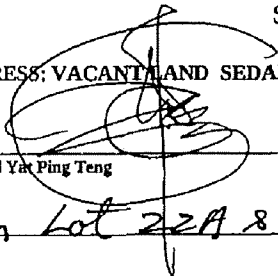
The foregoing instrument was acknowledged before me on this day of 11/20 2011 by William M. Thomas

Kari Jurczewsky  
Notary Public  
My commission expires: \_\_\_\_\_

KARI JURCZEWSKY  
NOTARY PUBLIC  
STATE OF COLORADO  
My Commission Expires 03/29/2014

SIGNATURE PAGE ATTACHMENT EXHIBIT

ADDRESS: VACANT LAND SEDALIA CO 80135



Edward Yat Ping Teng

For Lot 22A & 23

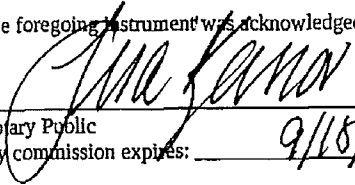
State of COLORADO

County of ~~DOUGLAS~~

DENVER

)  
)ss  
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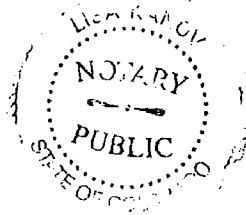
The foregoing instrument was acknowledged before me on this day of December 07, 2011 by Edward Yat Ping Teng.



Notary Public

My commission expires:

9/18/2012



SIGNATURE PAGE ATTACHMENT EXHIBIT

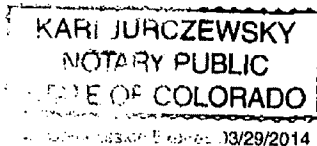
ADDRESS:

Thomas B. Rieber  
Erica M. Rieber  
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 \_\_\_\_\_  
 \_\_\_\_\_  
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State of COLORADO )  
 )ss  
 County of DOUGLAS )

The foregoing instrument was acknowledged before me on this day of December 07, 2011 by: Thomas B. and Erica M. Rieber

Kari Jurczewsky  
 Notary Public  
 My commission expires: \_\_\_\_\_



SIGNATURE PAGE ATTACHMENT EXHIBIT

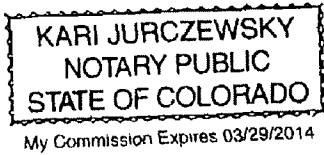
ADDRESS:

~~David Kmezich David Kmezich~~

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STATE OF Colorado )  
COUNTY OF Douglas )ss  
)

The foregoing instrument was acknowledged before me on this day of 12/11 by David Kmezich  
Witness my hand and seal.  
My commission expires: \_\_\_\_\_



Kari Jurczewsky  
Notary Public

SIGNATURE PAGE ATTACHMENT EXHIBIT

ADDRESS:

\_\_\_\_\_

*Karen J. Thomas*

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\_\_\_\_\_

STATE OF *Colorado* )

COUNTY OF *Douglas* )ss

The foregoing instrument was acknowledged before me on this day of *12/9/11* by *Karen J Thomas*

Witness my hand and seal.

My commission expires: \_\_\_\_\_

*Kari Jurczewsky*

\_\_\_\_\_  
Notary Public

KARI JURCZEWSKY  
NOTARY PUBLIC  
STATE OF COLORADO  
My Commission Expires 03/29/2014

SIGNATURE PAGE ATTACHMENT EXHIBIT

ADDRESS:

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\_\_\_\_\_

STATE OF Colorado )

COUNTY OF Douglas )ss

The foregoing instrument was acknowledged before me on this day of 12/11/11 by Emily Shock

Witness my hand and seal.

My commission expires: \_\_\_\_\_

KARI JURCZEWSKY  
 NOTARY PUBLIC  
 STATE OF COLORADO

My Commission Expires 03/29/2014

Kari Jurczewsky  
 Notary Public