

**SECOND AMENDMENT TO THE DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS FOR CASTLE VALLEY RANCH,
PLANNED UNIT DEVELOPMENT**

THIS SECOND AMENDMENT is made and entered into this 6th day of November, 2000,
by LAND DISCOVERY, INC., a Colorado corporation ("Declarant").

RECITALS

A. Declarant is the owner of at least seventy-five percent (75%) of the total lots and units authorized within Castle Valley Ranch, planned unit development, as the same appear on the plat filed for record on August 10, 1983, as Reception No. 344590 in the office of the Clerk and Recorder of Garfield County, Colorado.

B. On or about August 15, 1983, Declarant recorded a Declaration of Covenants, Conditions and Restrictions for the Property in the records of the Garfield County Clerk and Recorder, Colorado in Book 632, at Pages 961 through 978, Reception No. 344748. On February 8, 1996, Declarant recorded the First Amendment to the Declaration of Covenants, Conditions and Restrictions for the Property in the records of the Garfield County, Colorado, Clerk and Recorder in Book 966 at Page 679 as Reception No. 488796. The Declaration and Final Amendment to it described in this paragraph are together referred to below as the "Original Declaration."

C. Article V, Section 4 of the Original Declaration permits the amendment of the Original Declaration by the affirmative vote of owners of at least 75% of the total lots and units authorized within the Property. Section §38-33.3-120, C.R.S., permits the amendment of declarations of common interest communities in existence prior to the enactment of CCIOA if any such amendment is accomplished pursuant to the applicable declaration.

D. As owner of at least seventy-five percent (75%) of the lots and units authorized within the Property, pursuant to Article V, Section 4 of the Original Declaration and C.R.S. § 38-33.3-120, Declarant makes this Second Amendment to the Original Declaration, which Declarant intends to supercede the Original Declaration entirely.

THEREFORE, the undersigned agrees to, votes for, and makes the following amendment to the Original Declaration:

ARTICLE I
DEFINITIONS

Section 1. "Agencies" shall mean and collectively refer to the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Veterans Administration (VA), and the Federal Housing Administration (FHA), or any other public, quasi-public or private entity which performs (or may perform in the future) functions similar to those currently performed by any of these entities.

Section 2. "Architectural Control Committee" or "ACC" shall mean and refer to the committee appointed by Declarant or by the Board of Directors of the Association, as more fully provided in Article VIII of this Declaration.

Section 3. "Articles" shall mean and refer to the Articles of Incorporation of the Association as they may be amended from time to time.

Section 4. "Assessment" shall mean and refer to any assessment levied against one or more Owners of Developed Lots, as permitted by this Declaration or applicable law, including without limitation any of the following:

(a) "Regular Assessment" shall mean and refer to a charge against each Lot representing that portion of the Common Expenses attributable to such Developed Lot as provided in Article V of this Declaration.

(b) "Special Assessment" shall mean and refer to a charge against any Developed Lot for (1) costs incurred by the Association or Declarant for materials or services furnished to the Owner or his Lot at the request of or on behalf of such Owner, or as a result of any Owner failing to maintain any portion of his Developed Lot in accordance with the provisions of this Declaration, or as a result of the negligence, recklessness, or willful misconduct of any Owner, his employees, guests or invitees, or (2) for the purposes of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, or (3) for the funding of any operating deficit incurred by the Association, or (4) for excessive use or special use of the services or facilities, if any, provided by the Association, or (5) for any other purpose for which this Declaration or applicable law specifies or permits the imposition of a special assessment.

(c) "Capital Assessment" shall mean and refer to a charge against any Lot representing a portion of the Association's cost for the purchase, installation, construction, expected or unexpected repair or replacement of any capital improvement (including without limitation the necessary fixtures and personal property related to it) on the Common Area or on any other portion of the Property upon which the Association may be required or permitted to install, maintain, repair or replace any capital improvements as provided in this Declaration, plus reserves for repair or replacement of existing capital items and acquisition, construction, and installation of new capital improvements.

Section 5. "Association" or "Master Association" shall mean and refer to Castle Valley Ranch PUD Homeowners Association, Inc., a Colorado nonprofit corporation, its successors and assigns, which shall be the owners association for Owners of all Authorized Lots in the Property, subject to the provisions of Article IV, Section 1 below.

Section 6. "Authorized Lot" shall mean and refer to all lots, whether or not numbered, platted, or mapped, that are authorized within the Property pursuant to the CVR Original Zoning Plat, as the same may be amended from time to time.

Section 7. "Board" or "Board of Directors" means the Board of Directors of the Association.

Section 8. "Bylaws" shall mean and refer to the Bylaws of the Association as they may be amended from time to time.

Section 9. "CCIOA" means the Colorado Common Interest Ownership Act presently codified at 38-33.3-101, et seq., as it may subsequently be amended from time to time.

Section 10. "Common Area" shall mean any and all real property, and the improvements and fixtures on it, owned, leased, maintained pursuant to an agreement, or controlled by the Association for the common use and enjoyment of the Members, plus any street or other lighting fixtures owned, controlled or maintained by the Association and signage on any Common Area or for the general benefit of the Property or Owners, whether or not located on the real property owned, leased or controlled by the Association. The Common Area shall be as shown on any recorded plat of any portion of the Property as amended from time to time.

Section 11. "Common Expenses" shall mean and include expenditures made, and liabilities incurred, by or on behalf of the Association, including, without limitation, the cost to maintain Common Area not actually owned by the Association pursuant to an agreement.

Section 12. "Conveyance" shall mean and refer to conveyance of a fee simple interest or installment land contract of any part of the Property.

Section 13. "CVR Current Zoning Plat" has the meaning set forth in Article II, Section 7 of the Declaration.

Section 14. "CVR Original Zoning Plat" shall mean and refer to the Castle Valley Ranch Planned Unit Development Zoning Plat of the Property recorded at Reception No. 344590 of the Garfield County, Colorado, real property records on August 10, 1983, as the same may be amended or supplemented from time to time by recorded subdivision plat, recorded PUD development plan or recorded PUD master plan.

Section 15. "Declarant" shall mean and refer to Land Discovery, Inc., a Colorado corporation, its successors and assigns, provided such successors or assigns acquire more than one (1) unimproved lot from the Declarant for the purpose of development and resale, and provided such person or entity shall first be designated by the Declarant, as a Declarant for such purposes by a written instrument duly recorded in the real property records of Garfield County, Colorado.

Section 16. "Declaration," "Master Declaration" or "Restated Declaration" means this Second Amended Declaration of Covenants, Conditions and Restrictions for Castle Valley Ranch, Planned Unit Development.

Section 17. "Developed Lot" means each Platted Lot in the Property, which has been: (a) transferred to a party other than Declarant and with respect to which its supporting infrastructure is either complete or described in a valid subdivision improvement agreement, or (b) with respect to which the Town of New Castle has accepted and approved the infrastructure appurtenant to the lot, regardless of ownership of the lot. Each Developed Lot is also a Platted Lot.

Section 18. "Dwelling Unit" shall mean and refer to any residential improvement constructed within the Property, including, but not limited to, single-family residences, condominium units, townhouse units, patio homes or apartment buildings.

Section 19. "First Mortgage" shall mean the Mortgage encumbering a Lot recorded in the records of the Office of the Clerk and Recorder of the County of Garfield, Colorado, having priority of record over all other recorded liens except those governmental liens (such as general ad valorem tax liens and special assessments) and any other liens made superior by statute.

Section 20. "First Mortgagee" shall mean the Mortgagee of a First Mortgage.

Section 21. "Member" of the Association shall mean (1) each member of the Association on the date of the recording of this Declaration in the Office of the Clerk and Recorder of Garfield County, Colorado, and (2) each Owner who accepts a Conveyance of a Platted Lot or Developed Lot after the recording of this Declaration, and (3) each Owner not covered by (1) or (2) who voluntarily becomes a member of the Association, and (4) Declarant as Owner of each Authorized Lot, Platted Lot and Developed Lot owned by Declarant on the date of recording of this Declaration to the extent Declarant is not otherwise a Member as to each of those Authorized Lots, Platted Lots and Developed Lots. Once an Owner becomes a Member because of ownership of an Authorized Lot, Platted Lot or Developed Lot, membership in the Association shall be appurtenant to and inseparable from that Authorized Lot, Platted Lot or Developed Lot.

Section 22. "Mortgage" shall mean any mortgage, deed of trust, or other conveyance for security or encumbrance of a Platted Lot, or any interest in it, or the improvements on it, to secure the performances of an obligation.

Section 23. "Mortgagee" shall mean the mortgagee, trustee, beneficiary or other secured party under a Mortgage and the indebtedness secured by that Mortgage.

Section 24. "Mortgagor" shall mean and include mortgagors and trustors under deeds of trust which are Mortgages.

Section 25. "Original Declaration" means the Declaration of Covenants, Conditions and Restrictions, together with the First Amendment to it, described in Recital Paragraph B of this Declaration.

Section 26. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Authorized Lot, Platted Lot, or Developed Lot, plus purchasers under installment land contracts or similar instruments, but excluding Mortgagees or others having an interest in an Authorized Lot, Platted Lot or Developed Lot merely as security for the performance of an obligation.

Section 27. "Plans" shall have the meaning specified in Article VIII, Section 2 of this Declaration.

Section 28. "Platted Lot" shall mean and refer to an Authorized Lot which has been identified on a subdivision plat approved by the Town of New Castle and recorded in the Office of the Garfield County, Colorado, Clerk and Recorder.

Section 29. "Property" shall mean and refer to all real property contained in Castle Valley Ranch, Planned Unit Development, as shown on the CVR Original Zoning Plat, together with such

additions, if any, as may be brought within the purview of this Declaration and the Association, by exercise of Special Declarant Rights by amendment of this Declaration, or otherwise.

Section 30. "Special Declarant Rights" shall mean and refer to the development and other rights expressly reserved for the benefit of Declarant in accordance with the terms and conditions of this Declaration.

Section 31. "Subassociation" shall mean a non-profit corporation which is the owners association for Owners of all Platted Lots within a portion of the Property created pursuant to a Supplemental Declaration.

Section 32. "Supplemental Declaration" shall have the meaning as set forth in Article II, Section 3 of this Declaration.

Section 33. "Town" or "Town of New Castle" mean the Town of New Castle, Colorado, a Colorado municipal corporation.

ARTICLE II
DESCRIPTION OF COMMUNITY; AMENDMENT OF PRIOR DECLARATION;
DEVELOPMENT OF PROPERTY

Section 1. Name and Type. The Name of the community is Castle Valley Ranch, Planned Unit Development. This common interest community is a planned community.

Section 2. Amendment of Prior Declaration. This Declaration is intended to amend and replace the Original Declaration entirely. No portion of the Original Declaration shall survive this Declaration. In making this Declaration, Declarant affirms that Declarant is not creating a newly formed common interest community, but that Declarant is amending the declaration of a common interest community, the existence of which predates the Colorado Legislature's enactment of the Colorado Common Interest Ownership Act ("CCIOA") currently codified at C.R.S. §38-33.3-101, *et seq.* Declarant does not intend to subject the Property or the Association to the requirements of CCIOA, except to the extent that certain of CCIOA's provisions have mandatory application to common interest communities that existed prior to CCIOA's enactment or are expressly adopted by the provisions of this Declaration.

Section 3. Supplemental Declarations.

(a) A Supplemental Declaration for portions of the Property may be recorded which supplement the covenants, conditions and restrictions set forth in this Declaration. Upon recording a Supplemental Declaration, the Platted Lots it describes shall be subject to all of the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in this Declaration, and such covenants, conditions, and restrictions, if any, set forth in the Supplemental Declaration.

(b) Supplemental Declarations must meet the following criteria: (i) the Supplemental Declaration must be executed and acknowledged by all Owners of the Lots described in the Supplemental Declaration; (ii) the Supplemental Declaration must contain an adequate legal description of the Platted

Lots subject to it; and (iii) the Supplemental Declaration must contain a reference to this Declaration. Supplemental Declarations must also comply with Section 4, of this Article II.

(c) A deed by which Declarant conveys a Platted Lot to another person may constitute a Supplemental Declaration if it meets the criteria set forth in Subsection 3(b) above.

(d) Supplemental Declarations may impose covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions in addition to those set forth in this Declaration, upon the Platted Lots described in the Supplemental Declaration, for example, taking into account the unique and particular characteristics of the subject Platted Lots and their development. A Supplemental Declaration may create a common interest community subject to CCIOA, and a Subassociation to which Declarant may convey from time to time common elements, and which may possess the power to assess Owners within the boundaries of the portion of the Property the Supplemental Declaration describes.

Section 4. Model Subassociations Declaration. As a matter of convenience for development of the Property and to promote uniformity among Subassociations, Declarant has created and recorded concurrently with the recording of this Declaration in Book 1216 at page 194 in the real estate records of the Office of the Clerk and Recorder of Garfield County, Colorado, a model Subassociation Declaration of Supplemental Covenants, Conditions and Restrictions. This model Supplemental Declaration may be adopted as to any portion of the Property by reference to this model Declaration by an instrument executed and acknowledged by all Owners of the Platted Lots to which the Supplemental Declaration will apply, which recorded instrument may delete, modify or add to the provisions of the model Supplemental Declarations, either in the initial instrument adopting the model Supplemental Declaration, or in any amendment of that instrument.

Section 5. Restrictions on Subassociations and Supplemental Declarations. Declarant's prior written consent shall be required (i) before Supplemental Declarations may be filed of record against any portion of the Property, and (ii) before any planned unit development, map, plat or re-subdivision may be filed of record against all or any portion of the Property, until the earlier of conveyance by Declarant to Owners other than successor Declarants of all of the Property or twenty (20) years after the date this Declaration is recorded in the real estate records of Garfield County, Colorado. Declarant's signature on any document recorded pursuant to this Section shall constitute the consent required by this Section. Any document violating this section shall be voidable by Declarant recording written notice of Declarant's exercise of this right, which notice shall refer to the recording information of the offending instrument and the legal description of any Authorized Lots or Platted Lots or portions of the Property it purported to encumber or affect.

Section 6. Easements. Easements for the installation, maintenance, modification, repair and replacement of utilities, irrigation and drainage facilities may be created or reserved by being shown on any recorded subdivision plat creating Platted Lots. Within these easements no improvement, structure, planting or other material (excluding fences capable of being readily removed for the purposes of the easement) shall be placed or permitted to remain which may damage or interfere with the purpose of such easement, or which may change the direction of flow or drainage channels in the easements. Declarant reserves the right to enter upon the Property to correct any flow of water and to establish and re-establish drainage channels.

Section 7. CVR Current Zoning Plat. The Association may create and maintain a map, referred to in this Declaration as the "CVR Current Zoning Plat," showing the current zoning of all areas of the Property, and including as attachments copies of all recorded plats of areas of the Property subdivided to create Platted Lots pursuant to the CVR Original Zoning Plat. All areas of the Property then available for future development under the CVR Original Zoning Plat and not covered by recorded plats on the date of that CVR Current Zoning Plat will be marked "Future Development, See CVR Original Zoning Plat." The CVR Current Zoning Plat is solely for the convenience of Members and is not intended to be relied on for any purpose, nor will the Association warrant or guarantee its accuracy or completeness. All persons and entities are advised to consult the records of the office of the Garfield County Clerk and Recorder to confirm any information shown by a CVR Current Zoning Plat.

ARTICLE III

PROPERTY RIGHTS IN THE COMMON AREA

Section 1. Owners' Right of Enjoyment. Subject to the provisions of Section 2 of this Article III, every Owner shall have a nonexclusive right to use and enjoy the Common Area together with any facilities located within it. Each Owner's right of enjoyment shall be appurtenant to and pass with the title to every Platted Lot. The Owner's right of enjoyment pursuant to this Section shall include, but not be limited to, a easement for ingress and egress over and through the Common Area. At or before the recording of any Supplemental Maps or Plats, portions of the Property may be dedicated to the Town of New Castle as area that is for the common use of the Owners within the Property; however, in such event, any Owner's right of enjoyment in an to any such area shall be subject to the use and enjoyment of members of the public at large.

Section 2. Extent of Owner's Right. The Owner's right of enjoyment created in this Article III shall be subject to the following:

(a) The right of the Association to promulgate and publish rules and regulations pertaining to the use and enjoyment of the Common Area and facilities, if any, with which each Member shall strictly comply; and

(b) The right of the Association, as provided in its Articles and Bylaws, to suspend the voting rights of a Member for any period during which any assessment against his/her lot remains unpaid and for any infraction of its published rules and regulations; and

(c) The right of the Association to close or limit the use of the Common Area while maintaining, repairing and making replacements in the Common Area.

(d) The right of the Association to grant easements, rights-of-way, licenses, leases, declarations, transfers, conveyances or grants of any similar interest affecting the Common Area, to the extent permitted by law and on land not dedicated to the Town, including, without limitation, the power of the Association to borrow money and encumber (by mortgage, deed of trust, or otherwise) the Common Area or any part of it for the purpose of improving the Common Area; provided, however, that any such obligation and encumbrance shall be subordinate to the rights of the Members in the Common Area.

(e) The right of the Town of New Castle, or any other applicable governmental body having jurisdiction, to enact, promulgate or publish laws, statutes, ordinances, resolutions, rules or

regulations pertaining to the Common Area or to perform any of the other acts described in Subsections (a) through (d), above.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his/her right of enjoyment to the Common Area to the members of his/her family, his/her tenants or contract purchasers who reside on his/her lot.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS: THE ASSOCIATION

Section 1. Membership and Voting. All Members of the Association on the date of recording of this Declaration shall continue to be Members of the Association. Every Owner of an Authorized Lot, a Developed Lot or a Platted Lot at the time of recording this Declaration is entitled to be a Member of the Association. Every Owner who accepts Conveyance of a Platted Lot after recording this Declaration is required to be Members of the Association. Owners who are not currently Members of the Association and who accepted deeds to Platted Lots prior to recording this Declaration are entitled to be Members of the Association, but shall become Members only upon submission to the Association of a written consent, which consent shall describe the Owner's Platted Lot(s). The Association shall record the consent in the office of the Garfield County Clerk and Recorder. Membership in the Association, once established, shall be appurtenant to and may not be separated from ownership of any Platted Lot. The Owner of each Platted Lot or Authorized Lot shall be entitled to one vote for each Platted Lot or Authorized Lot. Multiple Owners of a single lot shall determine their vote in the Association as they desire, but only one vote per lot shall be exercised by any such multiple Owners.

Section 2. General Purposes and Powers of the Association. The Association, through its Board of Directors, shall perform such functions as reasonably required to and manage the planned community of Castle Valley Ranch, Planned Unit Development and to oversee such other common interest communities as may be subsequently created within Castle Valley Ranch, a Planned Unit Development, as provided in this Declaration so as to promote the interests of the residents, occupants, tenants, and guests of Castle Valley Ranch, Planned Unit Development, Members of the Association and Subassociations. All Owners in Castle Valley Ranch, Planned Unit Development, and all Owners of Platted Lots in such other common interest communities within the Property shall be deemed to have assented to, ratified, and approved such designation and management. The Association shall have all power necessary or desirable to effectuate such purposes as a master association as defined by CCIOA, but Article II, Section 2 of this Declaration shall control in the event of any conflict with this provision.

Section 3. Directors of the Association. The affairs of the Association shall be managed by a board of not fewer than three (3) nor more than five (5) directors (the "Board"). The Articles and Bylaws shall describe the qualifications and set the number of Directors.

Section 4. Management of the Association. From the date of formation of the Association until the termination of Declarant's control, Declarant shall have the right to appoint and remove all members of the Board and all officers of the Association. Declarant's control of the Association shall terminate upon the first to occur of sixty (60) days after conveyance of seventy-five percent (75%) of the Authorized Lots to Owners other than Declarant; two (2) years after Declarant's last conveyance of a Platted Lot in the ordinary course of business, or two (2) years after Declarant exercises any right to add new Platted Lots, whichever is later. Declarant may voluntarily surrender the right to appoint and remove

officers of the Association and members of the Board before termination of Declarant's control, but Declarant may require, for the duration of Declarant's control (notwithstanding Declarant's voluntary surrender of Declarant's right to appoint and remove officers and directors of the Board), that certain acts of the Association or the Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they shall be effective.

(a) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Authorized Lots, other than those which have already been conveyed to Owners other than Declarant upon recording this Declaration, to Owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Board shall be elected by Owners other than Declarant.

(b) Not later than sixty (60) days after the conveyance of fifty percent (50%) of the Authorized Lots, other than those which have already been conveyed to Owners other than Declarant upon recording this Declaration, to Owners other than Declarant, not less than thirty-three and one-third percent (33%) of the members of the Board will be elected by Owners other than Declarant.

(c) Not later than the termination of the period of Declarant's control, the Owners (including Declarant) shall elect a Board of at least three (3) but not more than five (5) members, at least a majority of whom must be Owners other than Declarant or designated representatives of Owners other than Declarant, and the Board shall elect the officers, with such Board members and officers to take office upon election. Within sixty (60) days after Owners other than Declarant elect a majority of the Board, Declarant shall deliver all property of the Owners and the Association held or controlled by Declarant to the Association.

Section 5. Officers of the Association. The officers of the Association shall be as set forth in the Bylaws of the Association.

Section 6. Association Agreement. Any agreement for professional management of the planned community or any contract providing for services of the Declarant may not exceed one year. Any such agreement must allow for termination by either party without cause, and without payment of a termination fee or penalty, upon thirty (30) days written notice.

Section 7. No Cumulative Voting. In the election of Directors of the Association, the cumulative method of voting shall not be allowed.

Section 8. Quorum. A Quorum will be deemed present throughout any meeting of the Association if persons entitled to cast 20% of the votes which may be cast for election for the Board of Directors of the Association are present, in person, or by proxy at the beginning of the meeting. A Quorum will be deemed present throughout any meeting of the Board of Directors of the Association if persons entitled to cast 50% of the votes on the Board are present at the beginning of the meeting.

ARTICLE V

COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments.

(a) The undersigned covenants, for each Developed Lot within the Property, and each Owner of any lot by acceptance of a deed or other instrument of Conveyance, which deed or instrument was or is subject to this Declaration, or the original Declaration, for his or her Developed Lot (whether or not it shall be so expressed in the instrument) is deemed to covenant and agree to pay to the Association: (i) all Assessments and charges levied against the Developed Lot; (ii) all fees, charges, late charges, attorneys fees, fines, collection costs, interest and other sums charged pursuant to this Declaration or as allowed by Section 38-33.3-316(1), C.R.S., or by any other applicable law. The Association shall have the right to impose reasonable charges for late payment of Assessments, recover reasonable attorney fees and other legal costs for collection of Assessments and other actions to enforce the power of the Association, regardless of whether suit was initiated, and, after notice and an opportunity to be heard, levy reasonable fines for violations of this Declaration, Association Bylaws, and the rules and regulations of the Association.

(b) All charges set forth in this Section, from the time such charges become due, shall be a charge on and covenant running with the land and shall be a continuing lien on the Developed Lot against which each such item is assessed. If an Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations. A valid acceleration of installment Assessment obligations may be made by the Board at any time any Assessment or Assessment installment is at least thirty days overdue.

(c) Each such charge, together with interest, costs, and reasonable attorneys fees, shall also be the joint and several personal obligation of each person or entity who was the Owner of the Developed Lot at the time when the charge became due; provided that, this personal obligation shall not pass personally to an Owner's successors-in-interest, unless expressly assumed by them. No Owner may be exempt from liability for Assessments by waiving his use or enjoyment of Common Area, or other assets or benefits of the Association, or by abandonment of any Developed Lot.

(d) The Association's lien on a lot for Assessments shall be superior to any homestead exemption now or later provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to a Developed Lot subject to this Declaration shall constitute a waiver of the homestead and any other such exemption as against such Assessment lien.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for Common Expenses and to promote the health, safety, or welfare of the residents in the Property, for the benefit of the Common Area; or for any other purpose of the Association, as those purposes (as amended from time to time) are specified by this Declaration, the Articles of Incorporation of the Association; or as otherwise authorized or permitted by applicable law.

Section 3. Expense Allocation.

(a) Common Expenses shall be apportioned equally between Developed Lots only. Authorized Lots and Platted Lots create no burden upon the Association and shall not be assessed.

(b) Any Common Expense, portion of any Common Expense, or other cost or expense to the Association benefitting or caused by fewer than all Developed Lots may be assessed exclusively against the Developed Lots benefitted by or causing the Common Expense or other cost or expense.

Section 4. Priority of Lien. The lien for Assessments, which includes without limitation all those items specified in Section 1 of this Article V shall have the priority specified in CCIOA which, at the date of this Declaration, is codified at Section 38-33.3-316(2), C.R.S., which provision of CCIOA applies to common interest communities that were in existence prior to CCIOA's enactment.

ARTICLE VI

NONPAYMENT OF ASSESSMENTS

Section 1. Delinquency. Any Assessment provided in this Declaration which is not paid when due is delinquent. If any such Assessment is not paid within thirty (30) days after the due date, without additional notice or demand, the Assessment shall accrue interest from the due date at the maximum permitted by CCIOA or other applicable law (presently 21% per annum), compounded annually, or at a lesser rate, as determined by the Board. The Board may also impose a late charge. The Association may, at its option, exercise any right or remedy available to the Association under applicable law, including without limitation bringing an action at law against the Owner personally obligated to pay the Assessment or foreclosing the lien provided in Article V, Section 1 above against the Developed Lot(s) as to which the lien for the Assessment attaches. In any case interest and all costs which may be incurred by the Association in its collection of the Assessment, including reasonable attorney's fees, shall be added to the amount of such Assessment. Each Owner also vests in the Association or its assigns the right and power to bring all actions or proceedings at law or in equity or to institute judicial foreclosure proceedings against such Owner or other Owners for the collection of such delinquent Assessments.

Section 2. Nature of Obligation and Lien.

(a) The obligation for such payments by each Owner to the Association is an independent covenant, which arises by virtue of an Owner's ownership of a Developed Lot, with all amounts due from time to time payable in full without notice (except as otherwise expressly provided in this Declaration) or demand, and without set-off or deduction. The Board or managing agent of the Association may prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Developed Lot and description of the Developed Lot. Such a notice shall be signed by one member of the Board or by the managing agent of the Association and may be recorded in the Office of the Clerk and Recorder of the County of Garfield, Colorado. The lien for each unpaid Assessment attaches to each Developed Lot at the beginning of each Assessment period and shall continue to be a lien against such Developed Lot until paid. The costs and expenses for filing any notice of lien shall be added to the Assessment for the Developed Lot against which it is filed and collected as part and parcel of the lien. Each Assessment, together with interest, late charges, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Developed Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass by conveyance of a Developed Lot.

(b) The statutory lien for Assessments is prior to all other liens and encumbrances on a Developed Lot except: (i) liens and encumbrances recorded before the recording of the Original

Declaration; and (ii) liens for those governmental liens or charges (such as ad valorem, real estate taxes and special assessments) and any other liens made superior by applicable law; and liens of First Mortgages. However, the statutory lien for Assessments is also prior to the lien of a First Mortgage to the extent of an amount equal to the Assessments based on a periodic budget adopted by the Association which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien created under this section of an action, or providing nonjudicial foreclosure either to enforce or to extinguish its lien.

(c) The recording of the Original Declaration as amended by this Declaration constitutes record notice and perfection of the Assessment lien. No further recording of any claim of lien or assessment is required, however, a notice of lien may be recorded at the Association's option, in which event costs and attorneys' fees incurred in connection with the preparation and filing of such notice shall be assessed against the Owner's lot as a Special Assessment.

Section 3. Foreclosure Sale. Any foreclosure sale related to an Assessment lien is to be conducted in accordance with those provisions of the laws and rules of the courts of the State of Colorado applicable to the foreclosure of mortgages, or in any other manner then permitted or provided by applicable law. The Association, through its duly authorized agents, shall have the power to bid at a foreclosure sale, and to acquire and hold, lease, mortgage and convey any Developed Lot so acquired in the name of the Association.

Section 4. Curing of Default. Upon the timely curing of any Assessment delinquency the Association is authorized to file or record a certificate setting forth the satisfaction of such claim and release of such lien, upon payment by the defaulting Owner of a fee determined by the Association to cover the costs of preparing and filing or recording such release, and other expenses incurred.

Section 5. Cumulative Remedies. The Assessment lien and the rights of foreclosure and sale under it shall be in addition to, and not in substitution of, all other rights and remedies which the Association and its assigns may have under this Declaration and then applicable law, including without limitation a suit to recover a money judgment for unpaid Assessments, as provided above, all of which rights and remedies shall be cumulative.

ARTICLE VII BUDGET AND RECORDS

Section 1. Books and Records. The Board of Directors shall maintain a full set of books and records showing the financial condition of the affairs of the Association. All books, records, and papers of the Association shall be available for inspection and copying by any Member or his representative during regular business hours at the principal office of the Association. The Board of Directors may establish reasonable rules concerning notice to be given to the custodian of the records by anyone desiring to inspect them, and payment of reproduction costs by the requesting Member.

Section 2. Annual Budget. The Board of Directors shall cause an operating budget, balance sheet, and cash flow statement for the Association to be prepared no less frequently than annually.

Section 3. Delivery of Budget. Within thirty (30) days after adoption of any proposed budget by the Board, the Board shall mail (by ordinary first-class mail) or otherwise deliver, a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not fewer than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary.

Section 4. Ratification of Budget. Unless at the meeting, Owners representing two thirds (2/3) of all Members in the Association reject the budget, the budget is ratified, whether or not a quorum is present.

Section 5. Rejection of Budget. If the proposed budget is rejected, the budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors.

Section 6. Reserve Fund. As part of each annual budget, the Board of Directors shall include an amount which, in its reasonable business judgment, will at least establish and maintain an adequate reserve fund for the repair or replacement of any personal property, fixtures, and improvements required to be operated or maintained by the Association based upon age, remaining life, replacement cost, and any other relevant factors.

Section 7. Fiscal Year. The fiscal year of the Association initially shall be the calendar year, but the Association may adopt a different fiscal year, for Assessments or otherwise, if permitted by law.

ARTICLE VIII

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Composition of ACC. The Architectural Control Committee shall consist of three (3) or more persons appointed by the Board of the Association; provided, however, that until Declarant has conveyed all Authorized Lots to Owners other than the Declarant, Declarant shall appoint the Architectural Control Committee. A majority of the ACC may, from time to time, designate a representative to act for it. The power of the Declarant to "appoint," as provided in this Section, shall include without limitation the power initially to constitute the membership of the Architectural Control Committee, to fill vacancies within the ACC; to remove any member, with or without cause, at any time, and appoint a successor; and each appointment to the ACC by the Declarant may be made for such term(s), subject to Declarant's removal power, as may be set from time to time in the Declarant's sole discretion. All improvements within the Property constructed by Declarant during the period in which it appoints the Architectural Control Committee shall be deemed approved by the ACC without the issuance of any writing evidencing such approval.

Section 2. Review by ACC. No structure or any attachment to an existing structure, landscaping, any building, fences, walls, canopies, awnings, roofs, exterior lighting facilities, athletic facility (excluding unobtrusive basketball hoops, temporary badminton nets, horseshoe pits if screened from view, and the like), or other similar improvement or attachment, shall be constructed, erected, placed or installed upon the Property and no alteration of the material or appearance (including color) of the exterior of a residence or other structure shall be made, and no change in the final grade of any lot shall be performed, unless copies of plans and specifications therefor (together "Plans"), showing exterior design, height, colors, materials, location of the structure or addition to the structure, as well as such other

materials and information as may be required by the ACC, shall first have been submitted to and approved in writing by the Architectural Control Committee. In its review of the Plans, the Architectural Control Committee may require that the applicant(s) pay the ACC a processing fee for the actual expenses incurred by the ACC in the review and approval process. This fee may include, but need not necessarily be limited to, reimbursement for fees charged by professional consultants to facilitate the review and approval process. If the application fee is not paid, the ACC shall not have any obligation to review the Plans. The fee may be levied as part of the Common Expense Assessment against the Developed Lot for which the request for Architectural Control Committee approval was made and, as such, shall be included within the Association's lien for assessments and may be enforced as such. Despite the foregoing, no Owner shall have the right to alter or modify the original fencing, landscaping or grading installed by Declarant within the Common Area; provided, however, that the foregoing prohibition shall not prevent the repair and maintenance and replacement of the same.

Section 3. Procedures. The Architectural Control Committee shall approve or disapprove all requests for approval of Plans, if the request complies with the provisions of this Declaration and the rules of the Architectural Control Committee, within thirty (30) days after the complete submission of copies of all required materials. Upon the complete submission of materials, the ACC shall issue a written receipt therefor, stating the date of the complete submission. If the applicant is not given a receipt, none of the time periods referenced in this Section 3, Article VIII, shall be enforceable against the ACC. It is the applicant's responsibility to obtain a receipt. If the ACC fails to approve, disapprove or otherwise respond to any submission within thirty (30) days after the complete submission of all required materials, the applicant shall provide the ACC with written notice of its failure to act. After such notice, if the Architectural Control Committee fails to approve, disapprove or otherwise respond to the submission within seven (7) days of the ACC's receipt of such notice, the applicant may treat the submission as granted and shall be deemed to have complied with this Article VIII.

Section 4. Vote and Appeal. A majority vote of the Architectural Control Committee is required to approve a request for architectural approval pursuant to this Article VIII. An owner may appeal the decision of the Architectural Control Committee to the Board, if the Board is composed of different members than the Architectural Control Committee, and, in such event, the decision of the Board shall be final.

Section 5. Records. The Architectural Control Committee shall maintain written records of all applications submitted to it and all actions taken by it on those applications, and such records shall be available to Members for inspection at reasonable hours of the business day.

Section 6. Liability. The Architectural Control Committee and its members shall not be liable in damages to any person submitting requests for approval or to any Owner, by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove in regard to any matter within its jurisdiction.

Section 7. Variance. The Architectural Control Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by Article VIII or Article XII of this Declaration to overcome practical difficulties and prevent unnecessary hardships arising from the application of the conditions and restrictions contained in Article VIII or Article XII of this Declaration. Such variances or adjustments shall be granted only if granting the variance shall not be materially detrimental or injurious to the other Developed Lots, Platted Lots or Authorized Lots or improvements in

the Property and shall not militate against the general intent and purpose of this Declaration. The grant or denial of any variance request shall not operate on any other occasion of any variance request as precedent for any such variance request. The grant of a variance pursuant to this Declaration shall not relieve the Owner of his/her obligation to comply with the laws and ordinances of Garfield County, Colorado or any other applicable governmental entity.

Section 8. Waivers. The approval or consent of the Architectural Control Committee to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the ACC as to any application submitted for approval or consent under this Declaration.

ARTICLE IX **INSURANCE**

Section 1. Insurance. The Association shall obtain and maintain insurance as required by law and this Declaration.

Section 2. Type of Insurance. The Association shall obtain a master insurance policy insuring against damage to the Common Area, if such Common Area is actually owned by the Association. The master insurance policy insuring the Common Area shall be for broad form covered causes of loss, shall include the Owners as additional named insureds and shall include (or the Association shall obtain separately) commercial general liability insurance with single limited coverage of not less than \$1,000,000.00 with \$500,000.00 medical payments coverage. In addition, if reasonably available, the Association shall maintain directors and officers liability insurance. The Association, as attorney-in-fact, shall have the authority conferred upon it in Article X of this Declaration to deal with insured items in the event casualty to them is an insured loss to the Association under its master insurance policy.

Section 3. Waiver of Subrogation. The Association and Owners each waive any and all rights of recovery against the other, their officers, members, agents and employees, occurring on or arising out of the use and occupancy of the Property to the extent such loss or damage is covered or indemnified by proceeds received from insurance carried by the other party, or for which such party is otherwise reimbursed. Each of the parties shall, upon obtaining the insurance required under this Declaration, notify the insurance carrier that the foregoing waiver of subrogation is contained in this covenant, and, to the extent available, shall require the insurance carrier to include an appropriate waiver of subrogation provision in the policy.

Section 4. Fidelity Bonds. If any Owner or Association employee controls or disburses Association funds, the Association must obtain and maintain, to the extent reasonably available, a fidelity bond insurance in an aggregate amount equal to not less than two months of current assessments plus reserve calculated from the then-current budget of the Association.

Section 5. Independent Contractors. Any person employed as an independent contractor by the Association for the purposes of managing the Association must obtain and maintain a fidelity bond in that same amount unless the Association names such a person as an insured employee in a contract of fidelity insurance described above. The Association may carry or require of an independent contractor employed to manage the Association fidelity bond coverage in an amount greater than that specified in this section.

Section 6. Fidelity Bond Premiums. Premiums for bonds required of the Association under this Article are Common Expenses of the Association.

ARTICLE X
DAMAGE OR DESTRUCTION OF COMMON AREA

Section 1. Application of Insurance. In the event of damage or destruction to any improvement within the Common Area, if actually owned by the Association, due to fire, other adversity or disaster, the Association shall receive and apply the insurance proceeds, if sufficient to reconstruct or repair the damage, to such reconstruction and repair, subject to Section 2 of this Article X.

Section 2. Inadequate Insurance. If the insurance proceeds are insufficient to repair and reconstruct damaged or destroyed Common Area, the Association may levy a Capital Improvement or Special Assessment in the aggregate amount of such deficiency pursuant to Article V of this Declaration and shall proceed to make such repairs or reconstruction, unless:

- (a) the planned community is terminated;
- (b) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;
- (c) eighty percent (80%) of the Owners vote not to rebuild; or
- (d) prior to the conveyance of any Platted Lot to a person other than Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Common Area rightfully demands all or a substantial part of the insurance proceeds.

Section 3. Payment of Insurance. The Capital Improvement or Special Assessment mentioned in Section 2 of this Article X shall be a debt of each Owner benefitted by the Assessment and a lien on his lot and its improvements, and may be enforced and collected in the same manner as any Assessment lien provided in this Declaration.

Section 4. Owner's Negligence. Notwithstanding anything to the contrary contained in this Article X, if the need for reconstruction or repair of the Common Area is caused by the intentional, reckless or negligent act or omission of (a) any Owner, or (b) any member of such Owner's family, or (c) a guest or invitee of such Owner, then the cost of such, repair or reconstruction shall be added to and become part of the Assessment to which such Owner's Developed Lot is subject and shall become a lien against such Owner's lot as provided in Article V of this Declaration. This determination shall be made by the Board at a hearing after notice to the Owner, provided that any such determination which assigns liability to any Owner pursuant to the terms of this Section 4 may be appealed by the Owner to a court of law.

Section 5. Appointment of Association as Attorney in Fact. This Declaration constitutes each Owner's irrevocable appointment of the Association as his or her attorney in fact to administer repairs, receive and apply insurance funds, and to ensure compliance with this Declaration upon the damage, destruction, or obsolescence of the Common Area.

Section 6. Rights of Association as Attorney in Fact. As attorney in fact, the Association by its President and Secretary, shall have the full and complete authority, right, and power to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the powers granted in this Declaration. Repair and reconstruction of the Common Area means restoring the same to substantially the same condition in which it existed prior to the damage. The obsolescence of the Common Area shall be determined by the Association, in its sole and absolute discretion. Except as otherwise provided in this Declaration any insurance proceeds collected shall be paid to the Association for the purpose of repair, restoration, or replacement.

ARTICLE XI

MAINTENANCE OBLIGATIONS

Section 1. General.

(a) Except as otherwise provided in this Declaration, the maintenance and repair of each Developed Lot, including, but not limited to, landscaping, the interior and exterior of the residence, improvements constructed thereon, and the interior of any fence on the common boundary line of any of the Common Areas and a Developed Lot shall be the responsibility of the Owner(s) of the Developed Lot, together with any tree-lawn area which may exist within the public right-of-way between the sidewalk and the back of curb for those areas adjacent to the sidewalk which borders the Developed Lot; said areas will be further defined by the extension of any lot line which would intersect the tree-lawn area adjacent to the Developed Lot.

(b) It shall be the duty and obligation of the Owner of each Developed Lot to landscape the front yard and tree-lawn area of his or her Developed Lot within sixty (60) days from issuance of a Certificate of Occupancy for the first Dwelling Unit constructed on that Developed Lot and to landscape the backyard of his or her Developed Lot within six (6) months from issuance of a Certificate of Occupancy. Should the initial Certificate of Occupancy for any given Developed Lot be issued before March 15 of any year, the time limits imposed above shall start on March 15 of that same year. Should the Certificate of Occupancy for any given Developed Lot be issued after October 15 of any year, the time limits imposed above shall start on March 15 of the following year. The time limits contained herein may be extended in writing by the Architectural Control Committee pursuant to the provisions of Article VIII hereof.

(c) The front yard landscaping shall include, but not be limited to, an automatic irrigation system, at least two (2) trees, one of which shall be a "street tree" at least six (6) feet in height as defined by Declarant for each Developed Lot, eight (8) shrubs, and an acceptable form of ground cover for the remainder of the yard area. The tree-lawn area will be planted as per the architectural guideline for the given street on which the Developed Lot faces.

(d) The Association shall have the right, but not the obligation, to undertake and complete any maintenance and repair of the exterior of any Dwelling Unit, the installation and maintenance of landscaping or the maintenance of any other improvement upon any Owner's Developed Lot or adjacent tree-lawn area in the event such Owner fails or refuses to perform such maintenance and repair or installation in accordance with the provisions of this Section 1.

(e) If the Association undertakes such maintenance, repair or installation, any costs, expenses and fees incurred by the Association for such maintenance, repair or installation shall be added to

and become a part of the Assessment to which such Owner's Developed Lot is subject and shall become a lien against such Owner's Developed Lot as provided in Article V of this Declaration. Prior to undertaking any repair, maintenance or installation pursuant to this Section 1, the Association shall give fifteen (15) days written notice to such Owner of its intent to undertake such maintenance, repair or installation if not undertaken and completed by such Owner within the fifteen (15) days.

Section 2. Maintenance of Common Area. Subsequent to Declarant's installation of improvements to the Common Area, and to the extent not performed by the applicable governmental entity or any Owner, the Association shall be responsible for the landscaping and maintenance of the Common Area, if any, including, but not limited to, repair of signs, fences, masonry columns, irrigation equipment, lighting and electrical fixtures and equipment and plantings. No Owner shall, in whole or in part, change the landscaping, grade or fencing or in any way change any portion of the Common Area.

ARTICLE XII **RESTRICTIONS**

Section 1. General Plan. Declarant intends to establish and impose a general plan for the improvement, development, use and occupancy of the Property, to enhance the value, desirability and attractiveness of the Property and to promote the health, safety and welfare of the lot Owners.

Section 2. Restrictions Imposed. The Declarant declares that all of the Property shall be held, sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration.

Section 3. Use of Common Area.

(a) No one shall use the Common Area in a manner that would violate the statutes, rules or regulations of any governmental authority having jurisdiction over the Common Area.

(b) No Owner, except for the Association and the Declarant, shall engage in any activity that will temporarily or permanently deny free access to any part of the Common Area to all Members, or place any structure or fence upon the Common Area.

(c) The use of the Common Area shall be subject to such rules and regulations as the Board and any governmental authority having jurisdiction over the Common Area, may adopt from time to time.

Section 4. Declarant Special Usage. Despite anything to the contrary contained in this Declaration, Declarant and its employees, agents, contractors and designees may perform such activities and maintain upon portions of the Property designated by Declarant or its designee such facilities or other improvements reasonably necessary or incidental to the construction and sale of Platted Lots and development of the Property. Without limiting the generality of the previous sentence, Declarant, or its designee, may maintain on Developed Lots, Platted Lots or Authorized Lots owned by Declarant or Declarant's designee business offices, storage areas, construction yards and equipment and trailers, signs, model homes and units, sales offices and management offices, and parking facilities and reasonable lighting facilities related to it. Sales offices, model units and management offices may be relocated from

time to time to other Developed Lots, Platted Lots or Authorized Lots within the Property and shall be of a size compatible with the development of the Property. At such time as Declarant ceases to be an Owner, Declarant shall remove any structures used for the purposes of this Section.

Section 5. Household Pets. No animals, livestock, reptiles, poultry or insects, or any kind, shall be raised, bred, kept or boarded in or on the Property; provided, however, that the Owners of each Developed Lot may keep a reasonable number of dogs, cats, fish or other domestic animals which are *bona fide* household pets, as long as such pet(s) are not kept for any commercial purpose and are not kept in such a number or manner to create a nuisance to any resident(s) of the Property, all of which shall be determined by the Association in its sole and absolute discretion. An Owner's right to keep household pets shall be coupled with the responsibility to pay the Association any costs it incurs for damages caused by such Owner's pet(s).

Section 6. Lots to be Maintained. Except during any period of construction or reconstruction, each Developed Lot at all times shall be kept in a clean, neat, sightly and orderly condition. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any Developed Lot so they are visible from any neighboring lot, the Common Area or any street.

Section 7. Temporary Structures. Except as provided in this Section, no temporary structure, including, but not limited to, a house trailer, tent, shack or outbuilding shall be placed or erected upon any Developed Lot, and no residence shall be occupied in any manner at any time prior to its being fully completed, nor shall any residence when completed be occupied until the residence complies with all the requirements, conditions and restrictions set forth in this Declaration; provided, however, that during the actual construction, alteration, repair or remodeling of a residence, necessary temporary structures for storage of materials may be erected and maintained by the person doing such work. The work of constructing, altering or remodeling any residence shall be prosecuted diligently from its commencement until its completion.

Section 8. Miscellaneous Structures.

(a) No advertising or signs of any character shall be erected, placed, permitted or maintained on any Developed Lot other than a name place of the occupant and a street number and except for a "For Sale" or "For Rent" sign not to exceed five (5) square feet. Notwithstanding the foregoing, signs, advertising, or billboards used by the Declarant or its designees in connection with the sale or rental of Lots and/or the improvements on them, or otherwise in connection with any development of the Property, shall be permissible, provided that such use by the Declarant or its designees shall not unreasonably interfere with any Owner's use and enjoyment of his Developed Lot, the Common Area or with such Owner's ingress or egress from a public way to the Common Area or his Developed Lot.

(b) Except as may otherwise be permitted by the Architectural Control Committee or Federal law, all antennae, including satellite receivers, shall be installed inside any residence or screened from public view in a manner to be approved by the Association or the Architectural Control Committee in either entity's sole and absolute discretion.

(c) No clotheslines, dog runs, drying yards, service yards, woodpiles or storage areas shall be so located on any Developed Lot so they are visible from a street.

(d) Any accessory building shall be a maximum of six (6) feet in height and the materials and color shall be approved by the Architectural Control Committee.

Section 9. Vehicle Parking, Storage and Repairs.

(a) No house trailer, camping trailer, boat trailer, hauling trailer, running gear, boat or accessories to them, motor-driven cycle, truck (larger than one ton), self-contained motorized recreational vehicle, or other type of recreational vehicle or equipment, may be parked or stored on or within any residentially zoned Developed Lot unless such parking or storage is done wholly within the enclosed garage located on that Developed Lot or is otherwise screened so not to negatively impact views from any street, from the adjoining lot Owner or from any Common Area or Public Open Space adjoining such Developed Lot. Any such vehicle may be parked as a temporary expedient for loading, delivery or emergency. This restriction, however, shall not restrict trucks or other commercial vehicles within the Property which are necessary for construction or for the maintenance of the Common Area, Public Open Space, Developed Lots or any improvements located on them.

(b) Except as provided above, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked on any residentially zoned Developed Lot, unless such abandoned or inoperable vehicles are kept within an enclosed garage. An "abandoned or inoperable vehicle" means as any automobile, truck, motorcycle, boat, trailer, camper, house trailer, self-contained motorized recreational vehicle, or other similar vehicle, which has not been driven under its own propulsion for a period of two (2) weeks or longer, or which does not have an operable propulsion system installed in it, provided, however, that otherwise permitted vehicles parked by Owners while on vacation, during a period of illness, or due to infrequent use, if the vehicle otherwise complies with the provisions of this Section, shall not constitute abandoned or inoperable vehicles. If the Association determines that a vehicle is an abandoned or inoperable vehicle, then a written notice describing said vehicle shall be personally delivered to its Owner or reputed Owner or shall be conspicuously placed upon the vehicle (if the Owner cannot reasonably be ascertained), and if the abandoned or inoperable vehicle is not removed or enclosed within seventy-two (72) hours after such notice, the Association shall have the right to remove the vehicle at the sole expense of its Owner.

(c) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed on conducted on any residentially zoned Developed Lot, unless it is done within a twenty-four (24) hour period or within enclosed structure(s), which screen the sight and sound of the activity from the street, from adjoining property and the rear of any Lots. The foregoing restrictions shall not be deemed or interpreted to prevent washing and polishing of any motor vehicle, boat, trailer or motor-driven cycle, together with those activities normally incident and necessary to such washing and polishing.

(d) Each Dwelling Unit shall include garage space large enough to house a minimum of one (1) car and a maximum of three (3) cars, unless otherwise approved by the ACC.

(e) All driveways shall be paved with either asphalt or concrete sufficient to cover its entire length from the garage to the street. The driveway shall be wide enough to accommodate at least one vehicle.

Section 10. Nuisances. No nuisance shall be permitted on or within the Property, nor any use, activity or practice which is the source of annoyance or embarrassment to, or which offends or disturbs, any residents of the Property, or which interferes with the peaceful enjoyment or possession and proper use of the Property, or any portion thereof, by its residents. As used above, the term "nuisance" shall not include any activities of Declarant or its designees which are reasonably necessary to the development of and construction on the Property; provided, however, that such activities of the Declarant or its designees shall not unreasonably interfere with any Owner's use and enjoyment of his lot or the Common Area, or with any Owner's ingress and egress to or from his lot and a public way.

Section 11. Lots Not to be Subdivided. Subject to Declarant's reserved right to further subdivide as described in Article XIII, Section 7 of this Declaration, no Owner shall further subdivide any Developed or Platted Lot so as to create an additional building site.

Section 12. Underground Utility Lines. All electric, television, radio and telephone line installations shall be placed underground, except that during the construction of any residence the contractor or builder may install a temporary overhead utility line which shall be promptly removed upon completion of construction.

Section 13. No Unreasonably Hazardous or Illegal Activities. No activities shall be conducted on the Property or within improvements constructed on or within the Property which are or might be unreasonably hazardous to any person or property or that are illegal.

Section 14. No Annoying Light, Sounds or Odors. No light shall be emitted from any Developed Lot which is unreasonably bright or causes unreasonable glare when viewed from the street, adjacent property or Common Area. No sound shall be emitted from any lot which is unreasonably loud or annoying and no odor shall be permitted from any Developed Lot which is noxious or offensive to others. The Declarant retains the right, however, to install decorative or commercial lighting on all model units or model complexes.

Section 15. Garbage and Refuse Disposal. No garbage, refuse, rubbish or cuttings shall be deposited on any street, the Common Area or any Developed Lot, unless placed in a suitable container suitably located, solely for the purpose of garbage pickup. All containers shall be removed from the street the same day they are placed there for garbage pick-up. All equipment for storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner. All trash receptacles shall be screened from view from the street. However, nothing in this Section shall prohibit the use of construction dumpsters by Declarant or Declarant's authorized builder(s) during the period of Declarant control described in Article IV, Section 4, of this Declaration.

Section 16. Leases. The term "lease," as used in this Section, shall include any agreement for the leasing or rent of a lot or any portion of any lot, and shall specifically include, without limitation, a month-to-month rental. Any Owner shall have the right to lease his Developed Lot (or Dwelling Unit if not on a separate Developed Lot) under the following conditions:

- (a) All leases shall be in writing;

(b) All leases shall provide that the terms of the lease and lessee's occupancy of the lot shall be subject in all respects to the provisions of this Declaration, and the Articles of Incorporation, Bylaws and rules and regulations of the Association, and that any failure by the lessee to comply with any of these documents, in any respect, shall be a default under the lease; and

(c) No lease shall be for fewer than thirty (30) days.

Section 17. Rules and Regulations. The Board may adopt, amend or repeal rules and regulations concerning and governing the Property or any portion of it, from time to time, and the Board may establish and enforce penalties for the violation of them, including, without limitation, the levying and collecting of fines, attorneys' fees and costs.

Section 18. Management Agreement and Other Contracts.

(a) The Association may utilize professional management in performing its duties under this Declaration. Any agreement for professional management of the Association's business or any contract providing for the services of Declarant shall have a maximum term of one (1) year and shall provide for termination by either party to the contract, with or without cause and without payment of a termination fee, upon thirty (30) days' prior written notice.

(b) Subject to this Article XII, Section 18(a), any contracts, licenses or leases entered into by the Association while the Declarant controls the Association shall provide for termination by either party to the contract, with or without cause and without payment of a termination fee upon thirty (30) days' prior written notice.

(c) Despite anything to the contrary contained in this Section 18, the Association may enter into contracts, licenses and leases in violation of Section 18(b) of this Section upon a waiver of any requirements contained in this Declaration by the Federal National Mortgage Association.

Section 19. No Mining or Drilling. No mining, drilling quarrying, digging or excavating for the purpose of testing for the existence of, or extracting oil, gas, coal or minerals of any kind shall be performed upon any Developed Lot.

Section 20. Irrigation. The Association may promulgate and adopt rules and regulations concerning the irrigation of Developed Lots and Common Area as necessary to protect the geologic integrity of the Property and all improvements erected on it, the available water supply and impact on it, and the protection of drainage. Such restrictions may include, but are not limited to, restrictions upon the maximum number of square feet permitted in lawn area and the amount of irrigation water permitted to be used on or applied to each Developed Lot over any duration of time chosen by the Association. The Town of New Castle defines water usage for one single family detached residence as 1 EQR. An EQR of use is defined as the amount of water necessary to meet the domestic needs of a single family home based on an average of 3.5 persons and 2,500 square feet of lawn (currently established by the Town of New Castle to equal 350 gallons per day of household use and 173 gallons per day for irrigation, which is the equivalent of 15,000 gallons per month). If more than 2,500 square feet of lawn or equivalent is to be planted on any given Developed Lot, it is highly recommended that native, drought resistant plantings be used to assure that such plantings can be properly irrigated and maintained. Should an Owner consume more than the equivalent of 1 EQR of water, such Owner may be assessed for all associated costs to the Declarant or the

Association, including, without limitation additional tap fees, costs for additional infrastructure, or the value of additional water used, all as associated with the Owner's usage.

Section 21. Drainage. There shall be no release from any Developed Lot of any contaminant or hazardous material into any drainage system on the Property, nor shall any Owner other than Declarant or anyone under the Owner's direct or indirect control interfere, obstruct or alter any drainage system on the Property. The Association may, but shall not be required to, undertake to correct, remediate or clean up any release of contaminants or hazardous materials, or the obstruction or alteration of the subdivision drainage system, and all costs, expenses and fees incurred by the Association therefor shall be added to the annual Assessment for the Owner causing the same under Article V, payable, however, as the Association determines to be reasonable.

Section 22. Geotechnical Requirements. All construction of Dwelling Units and other improvements upon each Developed Lot shall meet the geotechnical requirements of any applicable governmental authority.

Section 23. Air-conditioning or Cooling Units. No air-conditioning or evaporative cooling unit shall be installed on the roof of any Dwelling Unit and, if installed, on the vertical wall of a Residence or on the yard of any lot, it shall be appropriately screened from view of the street, the method of screening to be approved by the Association or the Architectural Control Committee in its sole and absolute discretion.

ARTICLE XIII GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws or rules and regulations of the Association, as amended, shall be by any proceeding at law or in equity against any person or persons, including without limitation the Association, violating or attempting to violate any such provision as provided in this Declaration or applicable law. The Association and any aggrieved Owner shall have the right to institute, maintain and/or prosecute any such proceedings, and the Association shall further have the right to levy and collect fines for the violation of any provision of the aforesaid documents in any action instituted or maintained under this Section. The prevailing party shall recover its costs and reasonable attorneys' fees incurred pursuant to this Section, as well as any and all other sums awarded by the court. Failure by the Association or any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Amendment. This Declaration may be amended or repealed at any time by the affirmative vote of at least a majority of the Owners of Developed Lots, Platted Lots and Authorized Lots within the Property.

Section 3. Severability. Invalidity of any of the covenants, conditions, restrictions or other provisions contained in this Declaration by judgment or court order shall in no way affect or limit any other provisions which shall remain in full force and effect.

Section 4. Conflict of Provisions. In case of any conflict between this Declaration, the Articles of Incorporation or Bylaws of the Association, this Declaration shall control.

Section 5. Street Lighting. Unless street lighting and its cost are provided by the community in which jurisdiction this subdivision is situated, all Developed Lots shall be subject to and bound to Public Service Company tariffs which are now and may in the future be filed with the Public Utilities Commission of the State of Colorado relating to street lighting in this subdivision, together with rates, rules and regulations therein provided and subject to all future amendments and changes on file with the Public Utilities Commission of the State of Colorado.

Section 6. Rights of Declarant Incident to Construction. An easement is retained by and granted to Declarant, its successors and assigns, for access, ingress and egress over, in, upon, under and across that portion of the Common Area not dedicated to the Town, including, but not limited to, the right to store materials on it and to make such other use of it as may be reasonably necessary or incidental to Declarant's or its designees' construction on the Property; provided, however, that no such rights or easements shall be exercised by Declarant in such a manner which unreasonably interferes with the occupancy, use, enjoyment or access by any Owner, his family members, guests or invitees to or of that Owner's Developed Lot. Declarant, for itself and its successors and assigns, hereby retains a right to store construction materials on Developed Lots, Platted Lots and Authorized Lots owned by Declarant and to make such other use of them as may be reasonably necessary or incidental to the purpose of the completion or improvement of the Property, the performance of Declarant's obligations under this Declaration and the sale of Developed Lots. Any special Declarant rights created or reserved under this Article XIII or elsewhere in this Declaration for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in the Office of the Clerk and Recorder of the County of Garfield, Colorado. The rights of Declarant reserved in this Section 6 shall continue in effect so long as Declarant owns any Developed Lot, Platted Lot or Authorized Lot within the Property. Any rights granted to Declarant under this Declaration shall expire on the date which is twenty (20) years from the recording date of this Declaration, unless otherwise provided herein.

Section 7. Reserved Declarant Rights. In addition to other rights reserved by Declarant in other sections of this Declaration, Declarant reserves, for itself, its successors and assigns, the following rights:

(a) *Reservation of Right to Expand.* Declarant reserves the development right to expand the Property to unspecified real estate according to law.

(b) *Reservation of Right to Further Subdivide.* Subject to applicable law, Declarant reserves the right to further subdivide ("Right to Subdivide") all or any portion of the Property, plus any or all of any real estate added under Section 7(a) of this Article XII without notice to or approval or consent of any Owner. Declarant may exercise its Right to Subdivide with respect to all or any portion of the Authorized Lots in whatever order Declarant determines in Declarant's sole discretion. The exercise of any Right to Subdivide with respect to any portion of the Authorized Lots shall not obligate Declarant to exercise such right with respect to any other portion of the Authorized Lots.

(c) *Maximum Units Authorized.* The maximum number of Lots authorized for Declarant to create, either by the exercise of Declarant's reserved rights shall be the maximum allowed by law at the time of the expansion.

(d) *Supplemental Declarations and Supplemental Maps.* Declarant may exercise its Right to Expand, Subdivide, or both, by recording one or more Supplemental Declarations and Supplemental maps in the real property records of Garfield County, Colorado, in accordance with Article II § 3 above. A Supplemental map is a map which is attached and incorporated into any Supplemental Declaration, which map designates the real estate covered by the Supplemental Declaration.

(e) *Interpretation and Expansion Definitions.* Recording any Supplemental Declaration pursuant to exercising the reserved rights in this Section shall automatically effectuate the terms and provisions of any such Supplemental Declaration. The Supplemental Declaration shall automatically: (a) vest in each existing Owner the reallocated rights in and to the Common Area appurtenant to the Owner's Platted Lot(s); and (b) vest in each existing security interest holder a perfected security interest in the reallocated Common Area appurtenant to the encumbered Platted Lot. Also upon recording any Supplemental Declaration, if such Supplemental Declaration describes and adds the real estate, the definitions used in this Declaration shall automatically extend to encompass and refer to the additional real estate. All conveyances of Platted Lots after such Supplemental Declaration is recorded shall be effective to transfer rights in the Property, including Common Elements, whether or not reference is made to any Supplemental Declaration in the instrument of conveyance. Reference to the Declaration in any instrument shall be deemed to include all Amendments and Supplements to the Declaration without specific reference to the Declaration.

(f) *Declaration Operative to New or Additional Lots.* Any new or additional Platted Lots shall be subject to all of the terms and conditions of this Declaration, upon recording the plat creating those Platted Lots in the real property records of Garfield County, Colorado.

(g) *No Objection to Exercise of Reserved Development Rights.* No Owner shall have any right to object to the exercise of any of Declarant's rights set forth in this Article.

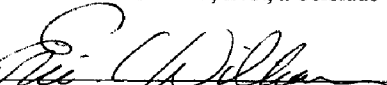
(h) *No Obligation to Exercise Reserved Development Rights.* Declarant shall have no obligation to expand or further subdivide the Property beyond the number of Platted Lots initially submitted to this Declaration. All reserved rights under this Section may be exercised by Declarant in Declarant's sole and absolute discretion.

(i) *Expiration of Reserved Rights.* Declarant's rights under this Section 7 will expire twenty years after the date of recording of this Declaration in the Garfield County, Colorado, real property records, unless extended by recording an appropriate amendment to this Declaration.

Section 8. Registration by Owner of Mailing Address. Each Owner shall register his/her mailing address with the Association, and except for statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. However, if any Owner fails to so notify the Association of a registered address, then any notice or demand may be sent to such Owner at the address of such Owner's lot. All notices, demands or other notices intended to be served upon the Board or the Association shall be sent by certified mail, postage prepaid, to 0981 County Road 245, New Castle, CO 81647, until such address is changed by the Association.

IN WITNESS WHEREOF, the undersigned, being the Declarant, has set its hand and seal on the day and year first above written.

LAND DISCOVERY, INC., a Colorado

By 
Eric C. Williams, President


STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

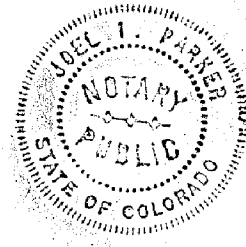
Subscribed and sworn to before me this 6th day of November, 2000, by Eric C. Williams, as President of Land Discovery, Inc., a Colorado corporation.

WITNESS my hand and official seal.

My commission expires:

2-1-2003


Notary Public



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