

## INDIAN CAMP RANCH

### AMENDED AND RESTATED DECLARATION OF PROTECTIVE RESTRICTIONS OF INDIAN CAMP RANCH HOMEOWNERS ASSOCIATION AS RECORDED ON: April 16, 2018 MONTEZUMA COUNTY, COLORADO

THIS AMENDED AND RESTATED DECLARATION is effective upon recording.

#### RECITALS:

A. On October 1, 2009, Archie E. Hanson, Jr. and Mary Hanson, Declarants, recorded an Amended Declaration of Protective Restrictions #3 and Articles of Association of an Incorporated Association Referred to as the Indian Camp Ranch Homeowners Association in the real property records of Montezuma County, Colorado at Reception No. 566902 ("Original Declaration"), submitting the real property described on Exhibit A to its covenants, conditions and restrictions;

B. The Owners within the Indian Camp Ranch community desire to amend and restate the Original Declaration by virtue of this Amended and Restated Declaration of Protective Restrictions of Indian Camp Ranch Homeowners Association, and intend, upon the recording of this Declaration, that all prior recorded declarations, amendments and supplements thereto shall be superseded and replaced by this Declaration;

C. The Original Declaration provides for and allows for this Declaration in Article III, Section 1, which provides the following in pertinent part:

(a) Amendment, change, modification or termination of all or any of the restrictions, conditions, covenants, reservations, liens or charges set forth in this Declaration may be made and effected from time to time by written instrument duly executed and recorded:

(1) As to all or any property covered by this Declaration then owned by Declarants, by the Association and Declarants; and

(2) As to all or any part of any other property then covered by this Declaration, by the Association, Declarants and the owners of record of two-thirds of all parcels covered by the restrictions, conditions, covenants, reservations, liens or charges which are to be so amended, changed, modified or terminated.

Provided, however, that in neither case shall any such amendment, change, modification or termination as to any property be made without the written consent, duly executed and recorded, of the owners of record of not less than two-thirds of all parcels held in private ownership.

D. The amendments within this Declaration have been prepared and determined by the Association and by the Owners that have approved this Declaration to be reasonable and not burdensome;

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Kim Percell Clerk/Recorder, Montezuma County, Co



Pursuant to the requirements set forth in Article III of the Original Declaration, the Association has obtained the written consent to this Declaration from the owners of records of not less than two-thirds of all parcels held in private ownership.

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

## ARTICLE I DEFINITIONS

Each capitalized term in this Declaration shall have the meaning specified or used in the Act, unless otherwise defined in this Declaration or the context requires otherwise:

(a) Act shall mean the Colorado Common Interest Ownership Act, C.R.S. '38-33.3-101 *et. seq.*, as it may be amended.

(b) Association shall mean Indian Camp Ranch Homeowners Association, a Colorado nonprofit corporation, and its successors and assigns.

(c) Board or Board of Directors shall mean the body, regardless of name, designated in the Governing Documents to act on behalf of the Association.

(d) Common Area shall mean all real property owned by the Association for the common use and enjoyment of the Owners, if any.

(e) Community or Indian Camp Ranch Community shall mean the planned community known as Indian Camp Ranch Homeowners Association community, and the real property subject to this Declaration and as further defined by the recorded Plats and the legal descriptions contained in this Declaration, and the Members of the Association.

(f) Declaration shall mean and refer to this Amended and Restated Declaration of Protective Restrictions of Indian Camp Ranch Homeowner Association, and any future amendments, recorded in the office of the Clerk and Recorder of Montezuma County, Colorado.

(g) Governing Documents shall mean this Declaration, the Plat, the Articles of Incorporation, the Bylaws, Rules and Regulations, and any policies and procedures of the Association, as all of the foregoing may be amended from time to time.

(h) Guest House shall mean the residential dwelling unit separate and distinct from the primary Residence, constructed on a Lot, which is designed for use and occupancy by those persons described in Article II, Section 1(e) of this Declaration. The Guest House is incidental and accessory to the primary Residence.

(i) Lot shall mean and refer to any plot of land shown upon any recorded Plat of the Property with the exception of Common Areas, if any. The term "Lot" is used



interchangeably with "Parcel" in the Original Declaration.

(ii) Member shall mean any Owner. The terms "Member" and "Owner" may be used interchangeably.

(i) Owner shall mean the owner of record title, whether one or more persons or entities, to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

(j) Plat or Map shall mean and refer to the plat(s) and/or map(s) of the Property and improvements that are subject to this Declaration and which are designated in the Plat or Map recorded in the records of the Office of the Clerk and Recorder of Montezuma County. More than one plat, map or supplement thereto may be recorded, and, if so, then the term "Plat" or "Map" shall collectively mean and refer to all of such plats, maps and supplements thereto.

(k) Property shall mean the property described in or which is subject to the Declaration together with all easements, rights, and appurtenances thereto, and the buildings and improvements erected or to be erected thereon.

(l) Residence shall mean the residential dwelling unit, other than and excluding a Guest House, constructed on a Lot which is designed and intended for use and occupancy as the primary residence of the Lot.

(m) Rules and Regulations shall mean any written instruments, however identified, which are adopted by the Association for the regulation and management of the Community and/or clarification of the Governing Documents, including any amendment to those instruments.

## ARTICLE II USE RESTRICTIONS

All Lots within the Property shall be held, used and enjoyed subject to the following limitations and restrictions. The strict application of the following limitations and restrictions in any specific case may be modified or waived, in whole or in part, by the Board of Directors or by an appropriate committee (subject to review by the Board of Directors) if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification, waiver, or variance is temporary in nature, must be in writing, and is subject to review at anytime by the Board of Directors.

### Section 1. Uses of Property

(a) The Property covered by this Declaration shall be used for residential, archaeological research and education, agricultural, or recreational and other purposes permitted under this Declaration only, including the tilling of the soil, the raising of crops, animals and horticulture.

(b) No building or structure shall be erected on any Lot or upon any portion of the Property covered by this Declaration which shall be used, designed or intended

to be used for any purpose other than for a single family dwelling, subject, however, to the provisions hereinafter contained as to Community facilities, protection of archaeological sites, barns, stables and appurtenant structures.

(c) A Guest House shall be allowed on each Lot in addition to the main Residence.

(d) No Residence, inclusive of garage, porches, verandas, porte cocheres and other similar projections or other buildings of any character whatsoever shall be erected, placed or suffered to remain on any Lot within one hundred (100) feet of any side line thereof, nor within one hundred-fifty (150) feet of the front line thereof except a structure protecting an archaeological site. Lots adjoining exterior boundaries to Indian Camp Ranch may have only a ten foot (10') setback.

(e) Residences and Guest Houses are for single family residence purposes only. A Guest House may be used for family members, domestic staff, caretakers and temporary guests only. Other than one Residence and Guest House, no other dwelling units shall be built on a Lot and no occupants shall reside in the Guest House on a full-time basis other than the domestic staff, caretakers, or family members. These occupants do not pay rent.

(f) No trailer, RV, camper, mobile home, modular home, basement, tent, shack, garage, barn or other outbuilding shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

Guests arriving with an RV or camper of any type may remain on a Lot for a period of no longer than two weeks within a six-month period without prior board approval.

No gas or oil derrick, advertising sign, billboard or other advertising device, or temporary living quarters or any structure or building other than the said dwelling houses shall be erected, placed or suffered to remain on any Lot except the following:

1. A stable, providing it is of a size not greater than reasonably necessary to accommodate the number of animals permitted by these restrictions. Such stable shall not be erected, placed or suffered to remain on any Lot nearer than one hundred fifty (150) feet to any public highway or any roadway or any front, side or rear Lot line. Nothing herein contained shall be construed to prevent the construction and use of sleeping or living quarters in connection with such stable for bona fide servants employed in the care of such stable, dwelling house or grounds.

2. A house, shed or coop for chickens or other fowl providing, however, that no such building shall be erected, placed or suffered to remain on any Lot nearer than 100 hundred (100) feet to the said dwelling house or



nearer than one hundred fifty (150) feet to any front, side or rear Lot line.

3. A contractor's job trailer used during the construction of a Residence or Guest House solely for the storage of the contractor's equipment, tools, and other items necessary for construction. It is expected that the contractor will make every effort to keep said job trailer as unobtrusive as possible and limit its visibility as much as possible, and that said job trailer will be immediately removed from the Lot once it is no longer needed at the construction site.

4. After the completion of the Residence or Guest House, trailers, campers, recreational vehicles, tractors, and other such utility vehicles may be kept on the Property but shall not be used as a temporary or permanent residence.

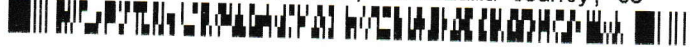
(g) No Residence or Guest House shall be used as a Bed and Breakfast establishment.

(h) Except as provided below, rentals are prohibited. A "rental" is defined as the use of the Residence or Guest House, for any period, in exchange for money or monetary compensation. Exceptions are as follows:

1. Existing Lease. Those Owners who are renting their Lots upon the date this Declaration is recorded shall be entitled to continue renting the Lot until the expiration of the existing lease term, not to exceed one year from the date this Declaration is recorded. Upon expiration of the lease, the Owner may not renew said lease nor rent to a new tenant, and the Owner shall then be subject to this provision.

2. Hardship. If the failure to rent will result in a hardship, the Owner may seek to lease on a hardship basis by applying to the Association for a Hardship Leasing Permit. The Association shall have the authority to issue or deny requests for Hardship Leasing Permits in its discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship, (2) the harm, if any, which will result to the Community if the permit is approved, (3) the number of Hardship Leasing Permits which have been issued to other Owners, (4) the Owner's ability to cure the hardship, and (5) whether previous Hardship Leasing Permits have been issued to the Owner.

A "hardship" as described herein shall include, but not be limited to the following situations: (1) an Owner or resident must relocate his or her residence and cannot, within six months from the date that the Lot was placed on the market, sell the Lot except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) where the Owner dies and the Lot is being administered by his or her estate; and (3) the Owner temporarily relocates due to illness



and intends to return to reside in the Lot.

Hardship Leasing Permits shall be valid for a term not to exceed one year. Owners may apply for additional Hardship Leasing Permits. Prior to entering into the hardship lease, the Owner shall provide a copy of the lease to the Board.

(i) Any device or activity which shall endanger the health or unreasonably disturb the peace and quiet of the Owners or residents within any Lot shall be deemed a nuisance and shall not be permitted.

(j) No industry, business, trade, occupation or profession of any kind shall be maintained or permitted on a Lot except:

1. Legal, professional and other business use conducted by the Lot Owner or resident that would be entirely in the residence, incidental to residential use and unobtrusive to other Owners and residents.

2. Artist studios for furtherance of their trade with the right to have small public gatherings or exhibits on an invitation basis only.

In no instance shall the above home occupations be visible externally, nor shall any home occupation employ anyone other than the Owner. Uses which have one or more of the following characteristics are not permitted: (a) manufacturing or fabrication of any kind (other than craft items for local events such as farmers markets, trade shows and other such events); (b) storage of hazardous materials; (c) increased traffic or parked vehicles beyond that reasonable and customary to a residential dwelling use; (d) permanent or long-term parking of heavy equipment, including semi-trailers; (e) the use or rental of any structure on a Lot for any transient, hotel, motel, bed and breakfast, restaurant, bar or other commercial purposes.

(k) There shall be no outdoor advertising on Indian Camp Ranch of a business or storage of equipment used in an Owner's or resident's trade or business or accumulation of automobiles, trucks or equipment in connection with that business except for agricultural use that would detract from the appearance of a residence neighborhood.

(l) No rubbish or debris shall be placed or permitted to accumulate upon any portion of said Lot and no odor shall be permitted thereon or to arise there from so as to render such portion unsanitary, unsightly, offensive or detrimental to any of the Lot in the vicinity thereof or to the occupants thereof, and no nuisance shall be permitted to exist or operate upon any portion of said Lot which is offensive or detrimental to any property in the vicinity thereof or to its occupants.

(m) No building or structure upon any Lot covered by this Declaration shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and be adequately painted.



(n) The work of construction on any building or structure upon said Lot shall be prosecuted diligently and continuously from time of commencement until the same is fully completed; no such building or structure shall be occupied until substantially completed.

(o) No obstruction, diversion or confining of existing channels upon, under and/or across any portion of said property through which water in time of storm or otherwise naturally flows or through which water has been caused to flow artificially by the Association's Board of Directors in the development of said property shall be made by any person without the written consent first obtained from the Association's Board of Directors.

(p) Not more than one horse, one pony, one cow, one sheep or other similar animal for each two acres of land shall be kept or harbored on any Lot. Any unusual kind of animal may be kept or harbored on any Lot upon the written consent of the Board of Directors of the Association. All animals must be fenced into the Lot.

(q) There shall be no big game hunting, or exploration for oil, gas or other minerals on said Lot.

(r) In order to protect the Night Sky at Indian Camp Ranch from artificial light, the use of yard lights, pole lights, or lights on buildings that come on at sunset and go off at sunrise is prohibited. The use of solar or low voltage path lights is allowed.

(s) No Owner or occupant of a Lot in Indian Camp Ranch may utilize their Lot for the purpose of growing, distributing, selling, transferring, or transporting marijuana, including medical marijuana. This restriction also prohibits growing, manufacturing, selling, transporting, and distribution of all Schedule I through V substances as currently defined by the United States Drug Enforcement Administration (DEA). This restriction may be further clarified by the Board of Directors through the Association Rules and Regulations. Owners will be responsible for any additional costs or damage resulting from a violation of this restriction, including but not limited to any legal fees incurred by the association as a result of any violation of this restriction. This restriction does not include growing marijuana for personal use in quantities that may be allowed by current Colorado laws.

## Section 2. Approval of Signs and Alterations

(a) Except as provided below, no billboard, poster or sign of any character shall be erected, maintained or displayed upon or about any part of the Property without the approval in writing of the Association's Board of Directors, and any billboard or sign not so permitted or approved may be summarily removed and destroyed. All name signs, address signs and archaeological site signs shall be the same as those designed and provided to the original purchasers unless



changed by a vote of the Board of Directors.

Notwithstanding the above, political signs, which are defined as signs intended to impact the outcome of an election or ballot issue, are permitted within the Lot boundaries and without Board approval, but subject to regulations regarding size, timing of display, number and placement, all as may be clarified in the Associations Rules and Regulations.

(b) No part of the Property covered by this Declaration shall be subdivided or resubdivided in Lots of less than thirty-five (35) acres. No lot line may be adjusted or changed unless approved by the Board of Directors of the Association.

(c) Right of Entry: The Board of Directors shall have the right to reserve for the Association and other persons described below an easement for the right, but not the obligation, to enter upon any Lot:

- (1) for emergency, security and safety reasons; and
- (2) to inspect any Lot for the purpose of ensuring compliance with this Declaration, the Bylaws and the Rules. Such right may be exercised by the Board of Directors and, for emergency, security and safety purposes, all police, fire and ambulance personnel and other similar emergency personnel in the performance of their duties.

During reasonable daylight hours, the right of entry shall include the right of the Association to enter upon any Lot after notifying and seeking permission from the Lot Owner of the intention and reason to do so. In the event an Owner fails to respond within a reasonable time (no more than 14 days) after the Board's notice, no less than two members of the Board of Directors shall have the right to enter upon and inspect any Lot embraced within said property for the purpose of ascertaining whether or not the provisions of this Declaration are being complied with, and shall not be deemed guilty of trespass by reason thereof. The right of entry shall not authorize entry into any Residence or Guest House without permission of the occupant, except by emergency personnel acting in their official capacities.

### Section 3. Archaeological Sites

The plan of development of Indian Camp Ranch has as one of its express purposes the creation of an Ancestral Puebloan Archaeological Preserve to protect and foster the preservation of the culture once flourishing on the land.

- (a) No house or any permanent structure may be built on top of a known archaeological site with the exception of a structure expressly designed to protect the site by covering it from the elements.
- (b) No road shall be constructed over a known archaeological site.
- (c) No Owner shall be required to dig or explore any site on his or her Lot.





(d) Lot Owners are encouraged to research the area in which they wish to construct their home to ascertain the extent of any nearby archaeological site. Without some exploration work by an archaeologist, a valuable and interesting site may extend under a home.

(e) When archaeological work commences on an archaeological site it must be done under the direction of a registered professional archaeologist (RPA), permitted archaeologist, or similarly academically qualified archaeologist who has been approved by the Board of Directors of the Indian Camp Ranch Homeowners Association. The board reserves the right to appoint an Archaeological Adviser to the Board.

Archaeological work must be done according to minimum standards of responsible archaeology further clarified in the Association's *Procedures, Policies and Rules*.

Owners are encouraged to actively participate in the exploration of their site(s) and to attend a class on basic archaeology periodically conducted in the local vicinity by the State Archaeologist or his designate.

(f) Any archaeological site dug must be preserved by stabilization or protection from the elements or reburied.

(g) All artifacts collected from the dig shall be preserved in curation form for permanent storage so that they can be used for future research or reburied on site.

Any item from the dig that the Owner wishes to keep for his or her personal enjoyment shall be returned to the Owner after first being properly recorded. The purpose of this activity is to let the Owner enjoy an item they wish to display but to insure that no valuable artifact is sold to a collector, thereby creating a commercial market. Ethical research cannot allow pot-hunting for profit and still be an acceptable archaeological endeavor.

Upon the death of the last remaining spouse or resident heirs of an Owner, or upon the sale of any Lot, any artifacts shall be transferred to the new Owner of that Lot. The purpose of this provision is to insure that all artifacts remain within the boundaries of Indian Camp Ranch.

(h) The Owner who commences an archaeological dig must prepare a final report of the project and make a copy available to the Association with the right to include the publication for public distribution. It is contemplated that Indian Camp Ranch will be a major contributor to research on the Ancestral Puebloans, and all information gathered should be available for this research effort.

#### Section 4. Easements and Rights of Way

Easements and rights of way are hereby expressly reserved for the creation, construction and maintenance of utilities, such as gas, water, telephone, telegraph, electricity, sewers, public, quasi-public and private within the area ten



(10) feet in width on each side of all property lines. Those easements may be established by the Board of Directors, excepting where said property lines are immediately contiguous with or adjoining road frontage boundary lines. The Board of Directors reserves sole and exclusive authority to enter into, execute and dedicate, as grantors, any of the said easements and rights of way for the construction, creation and maintenance of the aforesaid utilities on the above ten (10) feet easements and on the right of way on the recorded street frontage.

No motorized vehicles shall be permitted to operate anywhere other than on designated county roads within the borders of Indian Camp Ranch, with the exception of:

- (1) Emergency vehicles that may need access.
- (2) Equipment used for the purposes of farming or livestock control by a contracted farmer.
- (3) Motorized vehicles operated on one's own Lot.

### **ARTICLE III ASSOCIATION AUTHORITY**

#### **Section 1. Authority**

The Association shall have the right and power, subject to the other provisions of this Declaration and any limitations imposed thereby, to do and perform each and every of the following acts for the benefit, maintenance and improvement of the Property covered by this Declaration, to wit:

- (a) To purchase, construct and maintain public buildings, swimming pools, parks, parkways, playgrounds, gates, recreation areas, tennis courts, golf courses, club houses, airports, roping arenas, places of amusement, riding stables and other facilities of a like nature, all for the use and benefit of the Owners and residents of the Lots, and to charge for the use thereof.
- (b) To hold easements for and/or to improve, maintain streets, roads and similar improvements; to construct, pave, grade, repair and improve such streets and roads, as the Board of Directors of the Association deems to be of use or value to the Property subject to the jurisdiction of the Association; to care for, plant trees, shrubs or other plants on streets, parks, playgrounds and upon any property it owns or acquires; to construct, improve and/or maintain sewer systems, water lines and facilities and drains upon its easements and properties; to provide for the collection of mail and disposition of garbage, rubbish and the like and to make and collect charges therefor.
- (c) To fix, establish, levy and collect annually or otherwise charges and/or assessments upon each and every Lot, and the improvements thereon embraced within the Property subject to the jurisdiction of this Association, provided that the amount of each such charge or assessment shall be determined and provided by the Board of Directors of the Association in accordance with this Declaration.
- (d) To remove, clean up and/or mow grass and weeds and to remove any

unsightly or obnoxious things from any Lot, after reasonable advance notice to the Owner of that Lot.

- (e) To adopt Rules and Regulations, and impose penalties for the infraction thereof pursuant to Colorado law.

### Section 2. Membership

The Directors and Officers of this Association shall be elected and serve as consistent with the Bylaws of the Association. Every Owner, as defined in Article I above, is a Member of the Association. Memberships shall be appurtenant to and may not be separated from ownership of any Lot.

Each Lot shall be allocated one vote only, which shall be cast as a single vote, and shall not be subject to fractional voting. In no event shall there be more than one vote per Lot, regardless of any difference in the ownership of legal title and equitable title, or because of the ownership of such Lot being in joint tenancy, tenancy in common or in any other undivided or multiple interests.

There is hereby granted to and vested in the Association the right and authority to exercise such discretion to give or to refuse to give such consents and to do all such things as are permitted by or required of it to be done by the Association under this Declaration.

### Section 3. Assessments

- (a) Each Lot and/or portion of a Lot covered by this Declaration, except property in the improvements owned by the Association or designated by the Board of Directors of the Association as being devoted to public or semi-public use, and held for road purposes or community facility purposes, shall be subject to a continuous lien securing payment of an annual charge or assessment to be fixed, established and collected from time to time as herein provided. The Association shall have sole authority to fix and establish annually the amount of such annual or semi-annual charges or assessments (together with the penalties and costs of collection thereon) which charges or assessments shall be limited with respect to amount as hereinafter set forth.

- (b) The Association shall have the right to levy special assessments under unusual circumstances, as determined by the Board, to cover previously unbudgeted expenses or expenses in excess of those budgeted. Special Assessments may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. The Board shall have the right to require that Special Assessments be paid in advance of the provision of the subject services or materials.

- (c) In addition to the annual and special assessments, the Association shall have the right to add a supplemental assessment(s) to less than all Lots for the following:

- (i) Those amounts expended by the Association for the benefit of any



individual Lot or less than all Lots, or any occupant thereof, including but not limited to maintenance, repair, or replacement specific to a Lot(s);

(ii) Those amounts expended by the Association due to the negligent or willful acts of any Owner or resident, his or her guest, employee, licensee, lessee or invitee as set forth in this Declaration;

(iii) All fines and costs assessed against an Owner pursuant to the Governing Documents.

Except for supplemental assessments as described above, all assessments shall be made at a rate fixed by the Board of Directors of the Association. Said assessment rate may be increased by and to the extent agreed upon by the owners.

(d) The annual or semi-annual assessments provided for in this Declaration shall be fixed on or about the first Monday of October for the fiscal year beginning January 1 and annually thereafter each year for each succeeding fiscal year (which shall run from January 1 to December 31, both inclusive). Special assessments, supplemental assessments, and all other charges shall be fixed at a date determined by the Board. Each such charge and/or assessment shall be paid to the Association within 30 days of receipt, after which date each such charge and/or assessment not paid shall become delinquent and shall be enforceable against the Lot and the improvements thereon (if any) against which same have been assessed, and shall continue until such charge and/or assessment, together with all costs, penalties and interest provided for have been paid.

(e) Damages shall not be deemed adequate compensation for any breach or violation of this Declaration. Any party to a proceeding who succeeds in enforcing a restriction or enjoining the violation of a restriction against another owner of any Lot covered by this Declaration may be awarded a reasonable attorney's fee against the violating owner.

(f) The Board of Directors, as to the Lots covered by this Declaration, has established and does hereby establish, reserve and impose a lien thereon securing each charge and each assessment provided for by this Declaration, together with said costs, penalties and interest, and do hereby assign said lien to the Association together with the right to collect and enforce the collection of the same.

(g) The lien of the Association under this Section is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first lien security interest on the Lot (except as allowed by the Act with regard to the limited lien priority allowed to the Association); and (3) liens for real estate taxes and other governmental assessments or charges against the Lot. This Section does not affect the priority of mechanics' or materialmen's liens. The lien of the Association under this



Article is not subject to the provision of any homestead exemption as allowed under state or federal law. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead exemption as against said Assessment lien. Sale or transfer of any Lot shall not affect the lien for said Assessments or charges except that sale or transfer of any Lot pursuant to foreclosure of any first lien security interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of Assessment charges as provided by applicable state law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Lot from continuing liability for any Assessment charges thereafter becoming due, nor from the lien thereof.

#### Section 4. Indemnification

To the full extent permitted by law, each officer, director, committee member and volunteer of the Association shall be and hereby are indemnified by the Association against all expenses and liabilities including attorney fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer, director, committee member or volunteer of the Association, or any settlements thereof, whether or not they are an officer, director, committee member or volunteer at the time such expenses are incurred; except in such cases wherein such officer, director, committee member or volunteer is adjudged guilty of breaching his or her duty of care (as set forth in the Act) in the performance of his or her duties.

#### Section 5. Education and Training

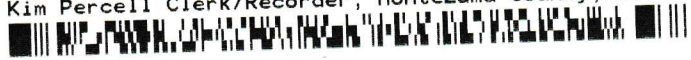
As a Common Expense, the Association shall, in accordance with the Act, provide education and training opportunities for Owners including providing funding and permitting use of facilities for such purposes. The Association shall provide education and training activities as a tool for fostering Owner, resident and occupant awareness of governance, operations and concerns of the Community and of the Association. Appropriate educational topics include dispute or conflict resolution, issues involving the Governing Documents, and education or topics benefiting or contributing to operation or governance of the Community and the rights and responsibilities of Owners and the Association. The Association may also fund and support education and training for officers and directors.

### **ARTICLE IV INSURANCE**

#### Section 1. Insurance on Lots

Each Owner has the responsibility to obtain hazard insurance covering loss, damage or destruction by fire or other casualty to the improvements, installed or made to their Lot, or other property of that Owner located on such Lot, and liability insurance covering any injuries occurring to persons or property damages on a Lot.

In the event of damage to or destruction of structures or improvements on a Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure and improvements in a manner consistent with the original construction or such other plans



and specifications as are approved in accordance with this Declaration, unless a determination not to rebuild is made by the Owner in cases of substantial damage or destruction. If the structure is substantially destroyed and a determination is made not to rebuild or to reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction, and, thereafter, the Owner shall continue to maintain the Lot in a neat and attractive condition consistent with this Declaration.

Section 2. Insurance to be Carried by the Association

The Association shall obtain and maintain in full force and effect, to the extent reasonably available and at all times, the insurance coverage set forth in this Declaration and as set forth in the Act, which insurance coverage shall include the following terms and shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado.

- (a) Hazard Insurance on Common Area. The Association shall obtain hazard insurance covering loss, damage or destruction by fire or other casualty to any insurable improvements installed or made to any Common Area and the other property of the Association.
- (b) Liability Insurance. The Association shall obtain public liability and property damage liability insurance covering any Common Area, in such limits as the Board may determine from time to time, and in all cases covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries and operation of automobiles on behalf of the Association.
- (c) Fidelity Insurance. The Association shall obtain fidelity coverage or fidelity bonds to protect against dishonest acts on the parts of its officers, directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation. The fidelity coverage or bonds should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, directors, trustees and employees, as required by law.
- (d) Worker's Compensation and Employer's Liability Insurance. The Association shall obtain worker's compensation and employer's liability insurance and all other similar insurance with respect to employees, if any, in the amounts and forms as may now or hereafter be required by law.
- (e) Directors' and Officers' Personal Liability Insurance. The Association shall obtain directors' and officers' personal liability insurance to protect the officers, directors, committee members and any person acting at the discretion of the Board from personal liability in relation to their duties and responsibilities in acting as officers and directors on behalf of the Association.
- (f) Other Association Insurance. The Association may obtain insurance against

such other risks, of similar or dissimilar nature, including flood insurance, as it shall deem appropriate with respect to the Association's responsibilities and duties.

(g) Insurance Premium. Insurance premiums for insurance provided by the Association shall be a Common Expense to be included as a part of the annual Assessments levied by the Association.

(h) Adjustments by the Association. Any loss covered by an insurance policy described above shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association and not to any holder of a first lien security interest. The Association shall hold any insurance proceeds in trust for the Association, Owners and holders of first lien security interests as their interests may appear. The proceeds must be distributed first for the repair or restoration of the damaged property, and the Association is not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored.

(i) Duty to Repair. Any portion of the Community for which the Association is required to insure under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association, except as provided in the Act.

(j) Responsibility for Payment of Deductible Amount. Whether the Board, in its discretion, chooses to submit a claim under the Association insurance policies or not, the Association shall pay or absorb the deductible amount for any work, repairs or reconstruction for damage to Common Area or other property insured by the Association unless the damage is caused by the negligent or willful act or omission of an Owner or resident, his family, guests, renters, or invitees, in which case the Association shall seek reimbursement of the deductible amount in compliance with and under the terms of the Declaration.

(k) Insurance Assessments. If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair due to deductibles allocated to the Association or failure of the Association to maintain coverage to defray costs of repair and reconstruction which in the absence of insurance would be the maintenance responsibility of the Association, the deductible or additional cost shall be a Common Expense. This Insurance Assessment shall not be considered an Assessment as discussed in this Declaration and shall not require any vote or ratification of the Owners.

## ARTICLE V AMENDMENT DURATION

All of the restrictions, conditions, covenants, reservations, liens and charges set forth in this Declaration shall continue in perpetuity and remain in full force and effect at all times against said Property covered by this Declaration, subject to the right to amend, change, modify and terminate provided for hereinafter.



Any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended, revised, removed or repealed, and new provisions, covenants, conditions, restrictions or equitable servitudes may be added, at any time and from time to time upon approval of record Owners holding at least two-thirds of the total vote of the Association. Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of Montezuma County a certificate setting forth the amendment in full and certifying that the amendment has been approved as set forth above, and containing the written consent and approval of the Association.

## **ARTICLE VI ENFORCEMENT**

Every Owner and occupant of a Lot shall comply with the Governing Documents, and each Owner shall have the right to enforce the covenants and restrictions, as set forth in this Declaration. The Association may enforce all applicable provisions of this Declaration, and may impose sanctions for violation of the Governing Documents. Such sanctions may include, without limitation:

- (a) imposing reasonable monetary fines, after notice and opportunity for a hearing, which fine shall constitute a lien upon the violator's Lot;
- (b) suspending the right to vote or use Common Area facilities, if any;
- (c) exercising self-help or taking action to abate any violation of the Governing Documents;
- (d) requiring an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Lot in violation of the Governing Documents and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the Lot, remove the violation and restore the Lot to substantially the same condition as previously existed and any such action shall not be deemed a trespass, with all fees and costs in connection with such removal and restoration to be assessed to the Owner as an Assessment under the terms of this Declaration;
- (e) without liability to any person, the Association precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration from continuing or performing any further activities in the Community;
- (f) levying specific, supplemental Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Governing Documents; and





(g) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibility, or otherwise fails to comply with the Governing Documents, the Association may record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a specific Assessment. The Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, the prevailing party shall be entitled to recover all costs, including, without limitation, attorney fees and court costs, reasonably incurred in such action.

The decision of the Association to pursue enforcement action in any particular case shall be left to the Board's discretion, subject to the duty to exercise judgment and be reasonable, as provided for in this Declaration, and further restricted in that the Board shall not be arbitrary or capricious in taking enforcement action.

## **ARTICLE VII MISCELLANEOUS AND GENERAL PROVISIONS**

### **Section 1. Lots Subject to Declaration**

Each Owner hereafter of any Lot included in the Property covered by this Declaration or holder hereafter of a contract of sale or lease covering any Lot accepts the same subject to all of the restrictions, conditions, covenants, reservations, liens and charges and the jurisdiction, rights and powers of the Association provided for in this Declaration.

### **Section 2. Modification of Streets and Roads**

The Board of Directors reserve the right to make such cuts and fills as are necessary to grade the streets and roads (whether or not dedicated to the public).

### **Section 3. Severability**

All of said restrictions, conditions, covenants, reservations, liens and charges contained in this Declaration shall be construed together; but if it shall at any time be held that any one or more of said restrictions, conditions, covenants, reservations, liens or charges, or any part thereof, is invalid or for any reason becomes unenforceable, no other restriction, condition, reservation, lien or charge or any part thereof, shall be thereby effected or impaired.

### **Section 4. Ingress and Egress**

Anything in this Declaration to the contrary notwithstanding, no gate or obstruction which blocks or interferes with ingress or egress or passage over or along any road or street upon said property or any part thereof shall be constructed, maintained or

