

DECLARATION OF PROTECTIVE COVENANTS

OF

BUTTE PASTURE

THIS DECLARATION AND AGREEMENT is executed the 20th day of April, 2004, by Butte Realty Co., a Colorado corporation, hereafter termed "Declarant".

ARTICLE 1.

STATEMENT OF PURPOSE OF DECLARATION

Section 1.1 Ownership of Property. Declarant is the owner of real property located in the E½ of Section 12, Twp 14S, R86W, 6th P.M. and W½ of Section 7, Twp 14S, R85W, 6th P.M., County of Gunnison, State of Colorado more particularly described on attached **Exhibit A** ("Property").

Section 1.2 Declaration of Covenants. Declarant hereby makes, declares and establishes the following covenants, restrictions and easements which shall affect the Property. This Declaration of Protective Covenants shall run with the Property and shall be binding upon all persons and entities having any right, title or interest in and to the Property or any Lots, tracts or parts thereof, their heirs, successors and assigns and their tenants, employees, guests and invitees and shall inure to and be for the benefit of each Owner of a Lot within the Property.

Section 1.3 Statement of Purpose. This Declaration of Protective Covenants is imposed for the benefit of all Owners and future owners of Lots, parcels and areas located within the Property and to provide for the preservation of values of the Property and to provide and to establish the covenants, easements, restrictions, assessments and liens hereafter set forth, all of which are for the benefit of the Owners of Lots.

Section 1.4 Common Interest Community. Declarant further declares the Property to be a Planned Community under the Colorado Common Interest Ownership Act ("Act").

ARTICLE 2.

DEFINITIONS

The following terms and words shall have the following definitions:

Section 2.1 "Association" shall mean the Butte Pasture Association, a Colorado non-profit corporation, or any successor thereof charged with the duties and obligations set forth herein.



Section 2.2 "Association Documents" shall mean this Declaration of Protective Covenants, the Plat, the Articles of Incorporation and Bylaws of the Association, any amendments thereto, and any future design guidelines, rules and regulations or policies adopted by the Association.

Section 2.3 "Assessments" shall mean annual, periodic, special or default assessments levied pursuant to this Declaration to provide the funds required to meet the obligations of the Association.

Section 2.4 "Barn" shall mean an accessory building designed to enclose livestock and to store agricultural products, feed, supplies and agricultural and livestock equipment and property, as well as boats, snowmobiles, all-terrain vehicles and other recreational equipment and/or personal property. The barn may also be used as living area, such as work shop, office space or guest bedrooms, on condition that no kitchen shall be allowed.

Section 2.5 "Board of Directors" or "Board" shall mean the Board of Directors of the Association duly elected and acting according to the Articles of Incorporation and Bylaws of the Association.

Section 2.6 "Building" shall mean a building or structure, or any similar type of improvement situate and located on a lot or parcel of land within the Property.

Section 2.7 "Building Site" shall mean the envelope or area within a Lot where a Building or other improvement shall be located, always subject to the prior written approval of the Board of Directors. To minimize visual impacts, impact on wetlands or avoid building constraints, the Board shall have the right to modify the size and shape of the Building Site in the general location shown on the Plat. The location of a Building Site constitutes no warranty or assurance that the Building Site contains potable water or is free of building constraints.

Section 2.8 "Common Area" or "Common Elements" shall mean all real property in which the Association owns any interest or has a leasehold interest for the common use and enjoyment of its members, as designated on the recorded map. Such interest may include, without limitation, estates in fee, estates for a term of years, leasehold estates, or easements. Each and every Common Area may have a restricted use or enjoyment and may be designated for a specific use for such Common Area.

Section 2.9 "Family Residence" shall mean the primary residence on any Lot designed for occupancy by the owner of the Lot.

Section 2.10 "Garage" shall mean an accessory building or an accessory portion of a residence designed for the storage of one or more motor vehicles, as well as boats, snowmobiles, all-terrain vehicles and other recreational equipment and/or personal property. The garage may also be used as living area, such as work shop, office space or guest bedrooms, on condition that no kitchen shall be allowed.

Section 2.11 "Guest House" shall mean a separate residence, either attached or detached from the family residence, designed for occupancy either by the owner of the Lot or the owner's guests or caretaker.

Section 2.12 "Improvement" shall mean all buildings, structures, parking areas, loading areas, fences, walls, hedges, plantings, poles, driveways, ponds, lakes, recreational facilities, signs, decks, enclosures, changes in exterior color or shape, excavation, and all other site work including without limitation grading, road construction, utility improvements, removal of trees or plantings, and any new exterior construction or exterior improvement constructed or completed on the Property.

Section 2.13 "Lot" shall mean a Lot as shown on the Plat of Butte Pasture and any subsequent Plat. Butte Pasture shall have eight (8) Lots.

Section 2.14 "Maintenance Fund" shall mean the fund created by assessments and fees levied pursuant to this Declaration to provide the Association with funds it requires to carry out its duties hereunder.

Section 2.15 "Member" shall mean any person holding membership in the Association whose land is subject to the terms and provisions of this Declaration.

Section 2.16 "Mortgage" shall mean any mortgage, deed of trust or other document pledging a Lot or interest therein as security for the payment of any indebtedness. **"First Mortgage"** shall mean any mortgage which is not subject to or junior to any lien or encumbrance, except liens for taxes and other liens which are given priority by statute.

Section 2.17 "Owner" shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot; provided, however, that prior to the first conveyance of any Lot for value after this declaration, the Owner shall mean the Declarant.

Section 2.18 "Owner's Agent" means members of the Lot Owner's family, or the Lot Owner's agent, employee, invitee, licensee or tenant, or the agent, employee, invitee, licensee or tenant of the Lot Owner's tenant.

Section 2.19 "Plat" shall mean the Plat of Butte Pasture and all subsequent maps as filed in the records of Gunnison County, Colorado, which are subject to these Protective Covenants, and as the same may be amended, enlarged or revised from time to time and affecting the Property.

Section 2.20 "Property" shall mean and include all of the Property subject to this Declaration.

Section 2.21 "Water Decree" shall mean the Amended Findings of Fact, Ruling of Water Referee, and Judgment and Decree of Water Court in Case Number 02CW54, District Court, Water Division No. 4, State of Colorado, filed by Declarant.



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ARTICLE 3.

USE OF LOTS

Section 3.1 Residential Use.

A. All Lots shall be used exclusively for residential purposes. Except for Lot 7, each Lot shall have no more than one Family Residence, and one attached or detached Garage and one Barn. No additional Buildings shall be permitted, except on Lot 7 on which a Guest House with attached or detached garage is also permitted. On Lot 7 improvements may be constructed in either or both of the Building Sites shown on the Plat. No more than one water well shall be installed on any Lot, except for Lot 7, on which two wells are allowed. No time-sharing shall be allowed.

B. Lot 4 shall be deed restricted in perpetuity and shall always be owned and occupied by a person who has resided within Gunnison County for three of the last five years and who earns 80% of his, her or their income from working within Gunnison County; or, in the alternative, Lot 4 shall be owned by a person who has resided within Gunnison County for at least ten years and who earns 80% of his, her or their income from working within Gunnison County. After the Owner has occupied a primary residence on Lot 4 for three years, the deed restriction shall be released by Gunnison County.

C. Lot 5 shall be sold by Declarant to a person who has resided in Gunnison County for at least ten years and who earns 80% of his, her or their income from working in Gunnison County. After the Owner has occupied a primary residence on Lot 5 for three years, the deed restriction shall be released by Gunnison County.

Section 3.2 Building Site. The main Family Residence and other Improvements shall be located substantially within the Building Site. Notwithstanding any other provision in this Declaration to the contrary, to minimize visual impacts, impact on wetlands or avoid building constraints the Board shall have the discretion:

A. To allow the well and/or individual sewage disposal system to be located within or outside of the Building Site;

B. To allow an insubstantial portion of the main Family Residence and other Improvements to be located outside of the Building Site.

C. To modify the size and shape of the Building Site in the general location shown on the Plat.

Section 3.3 Lot 7 Guest House.

A. One Guest House, detached from the Family Residence and containing not more than 3,800 square feet of gross residential floor area (GRFA), shall be allowed on Lot 7 only.



B. The Guest House shall at all times be owned by the Owner of the Family Residence and the Lot upon which it is situate. The Family Residence, but not the Guest House, may be leased short-term (less than 6 months). The Guest House may not be leased short-term. The Guest House may be leased only to a caretaker of the Family Residence and Lot. At no time shall a Guest House be used as the primary residence of a person or family other than the Owner of the Lot and the family of the Owner or a caretaker and the family of a caretaker employed by the Owner of the Lot.

C. Access to the Guest House shall only be by the same access driveway as provides access to the Family Residence.

Section 3.4 Barn. One barn with an appropriately fenced corral or corrals shall be allowed on each Lot, except Lots 4 and 5. All barns throughout the Property shall have uniform exterior siding and color as approved by the Board. All corrals throughout the Property shall be constructed of wood or other materials approved by the Board in a uniform style as approved by the Board.

Section 3.5 Approval of Use. No Improvement shall be constructed on any Lot except only as approved by the Board.

Section 3.6 No Commercial Use. No commercial or business enterprise of any nature shall be allowed or permitted on any Lot or Common Area; provided, however, that the Owner of the Lot may be permitted to rent or lease the Family Residence and/or Guest House (subject to the restrictions set forth in Section 3.3) and to conduct a home occupation, artistic or literary activity on any Lot upon the prior approval by the Board as to such occupation or activity. No such home occupation or artistic or literary activity shall diminish the residential character of the subdivision. No home occupation involving more than occasional client or customer visits to a Lot shall be allowed.

Section 3.7 Parking. All motor vehicle parking shall be in designated parking areas approved by the Board. Tractors, snowmobiles, motorcycles, recreational vehicles, trailers and other similar vehicles shall be parked and/or stored within a fully enclosed garage or barn at all times.

Section 3.8 Rules and Regulations. The Board shall have the authority to promulgate and enforce Rules and Regulations and/or design guidelines regarding the Property and its use and the Water Decree on condition that such rules and regulations and/or design guidelines are not inconsistent with this Declaration.

Section 3.9 Partition of Lots. No part of a Lot may be partitioned, separated or subdivided from any other part thereof.

Section 3.10 Neglect by Owner or Owner's Agents. If, due to the act or neglect of or a violation of any Association Document by an Owner or Owner's Agent, loss or damage shall occur or be caused to any person or property other than the Owner's Lot, the following provisions shall apply:

A. Such Owner and Owner's Agent shall be jointly and severally liable and responsible for the payment of same.



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B. Such Owner and Owner's Agent shall, jointly and severally, indemnify, defend and hold harmless the Association and all other Lot Owners from and against any and all cost, expense, claim or damage of any kind, including reasonable attorneys' fees and costs, arising therefrom.

C. The amount of such loss or damage and any costs incurred by the Association in connection with the enforcement of the Association's rights shall be subject to all of the Association's rights, including lien rights, with respect to the collection and enforcement of assessments as provided in this Declaration.

ARTICLE 4.

ARCHITECTURAL REVIEW AND APPROVAL

Section 4.1 Architectural Review Board. The Board of Directors of the Association shall be the Architectural Review Board.

Section 4.2 Review and Approval. No Family Residence, Guest House, Garage, Barn, Building or other Improvement shall be commenced, constructed, erected, altered, taken apart or maintained upon any Lot, nor shall any excavation or tree clearing be done, nor shall any exterior addition, change, painting, decoration or alteration be made, until the plans and specifications thereof have been submitted to and approved in writing by the Board in the manner hereafter set forth.

Section 4.3 Submittal Procedure. Prior to the commencement of any such work, complete plans shall be submitted to the Architectural Review Board for approval. The Board shall determine when a submission is complete. The submittal for approval shall include, at a minimum, the following documents:

A. A plot plan showing the location of any Building(s) or Improvements, landscaping, corrals, fences, access driveway, parking area and any terrain or structure features, such as large rocks, trees, ponds, patios, fences, utility lines, storage areas or decks.

B. Complete plans and specifications for the Building(s), and including a roof plan, in sufficient detail to verify and confirm the size, type and dimensions of the Building(s), mass and height of the Building(s), all design features thereof, all exterior elevations showing all sides of the Building(s), all floor plans and the types of construction and materials. All foundations shall be designed by a licensed engineer or architect.

C. Samples of the exterior materials and color schemes for the Building(s).

D. A landscape, drainage and grading plan, including topography and contour lines.

Section 4.4 Purpose of Review. The Board shall consider the suitability of the proposed Building(s) and in particular the harmony of the Building(s) with the environment, the effect of the Building(s) on the utilization and view of the Lot and

surrounding Lots and property and the placement of the Building(s) with respect to topography, drainage, snow removal, ground elevations, existing natural and terrain features and the visibility of any structure from Colorado Highway 135.

Section 4.5 Hearing. The Board shall, within thirty days of receiving an application for approval with all accompanying data, hold a hearing on such request, subject to Section 4.10. The Board may approve, disapprove or approve with conditions any request submitted to it. The decision of the Board shall be in writing. In the event that the Board fails to take action within thirty days after the date of the hearing, or fails to hold such hearing within thirty days after receiving an application, the application shall be deemed to have been approved.

Section 4.6 Notice of Hearing. The Applicant, and any person on his behalf, may attend the hearing on the application for approval and submit information in support of the application. Notice of the hearing shall be given in writing to all members of the Association and all members shall have the right to be present at the hearing or to submit written comments.

Section 4.7 Quorum. A majority of the Board shall constitute a quorum and all decisions of the Board shall be by a majority vote of the directors present.

Section 4.8 Final Decision. The decision of the Board shall be final, subject only to the right of judicial review as provided by the laws of the State of Colorado. The Board shall indicate in the event of denial, the reasons why the application was denied and grant to the applicant an opportunity to resubmit with the revisions and corrections that would bring the application into conformity with the requirements of the Board and Association Documents.

Section 4.9 Rules and Regulations. The Board may adopt such design guidelines and rules and regulations which are not inconsistent with this Declaration as it deems appropriate to govern its proceedings and the use of Lots, easements and Butte Pasture.

Section 4.10 Application Fee. A reasonable application fee may be required for any approval request. If the Board deems it appropriate to incur any professional or other expense in connection with an application, the Owner of the Lot to which the application pertains shall be obligated to pay such expense prior to the Board's decision on the Owner's application.

Section 4.11 Building and Other Permits. In addition to the requirement for approval by the Board, each owner is responsible for obtaining all approvals, licenses and permits as may be required by Gunnison County, Colorado and any other entity or district having jurisdiction over the Lot prior to the commencement of construction, including, without limitation, well, building, environmental health and individual sewage disposal system permits. Construction on and use of Lots are subject to the terms, provisions and restrictions of Board of County Commissioners of Gunnison County Resolution No. 24 Series 200 4, approving Land Use Change Application No. 1999-13. Prospective purchasers of Butte Pasture Lots are advised to contact Gunnison County's planning and building departments to ascertain what permits are needed and how to obtain approval of such permits.



Section 4.12 Variances. The Architectural Review Board may grant variances as to the design requirements contained in Article 5 and the location and size of the Building Site under the following conditions:

A. An application for a variance shall be submitted in the same manner as is required for design review approval. If the requested variance is part of an application for approval of a Building or other structure, such request may be submitted as part of that application.

B. A variance of the design requirements of this Declaration or the Design Guidelines may be granted if such variance is reasonable, is in keeping with the overall design objectives of Butte Pasture, and does not unreasonably detract from the Building Site, any other Building Site, or Butte Pasture.

ARTICLE 5.

DESIGN REQUIREMENTS

Section 5.1 Design Requirements. Any Family Residence, Guest House (on Lot 7 only), Garage, Barn, Building or Improvement on any Lot shall comply with the design requirements of this Declaration and of all design guidelines which may be adopted by the Board.

Section 5.2 Building Site. Any Building or Improvement shall be constructed entirely within the designated Building Site for the Lot, except as otherwise provided in this Declaration. The Board shall have discretion to modify the Building Site boundaries for good cause, which shall include, but not be limited to reduction of wetlands impacts and visual impacts and avoidance of building constraints.

Section 5.3 Setback. Except as otherwise approved by the Board, Buildings shall be set back from any Lot line at least 20 feet, unless any part of a Building Site is closer than 20 feet from a Lot line, in which event construction within the Building Site shall be allowed. The Board shall have discretion to increase or decrease the setback for good cause.

Section 5.4 Uniform Building Code. All Buildings and Improvements shall meet all of the requirements, including fire protection standards, of the Uniform Building Code, the requirements of the Crested Butte Fire Protection District and all other applicable codes, rules and regulations.

Section 5.5 Minimum Floor Area. The gross residential floor area (GRFA), determined in the manner provided by the Uniform Building Code, shall be not less than 400 square feet for any Family Residence or Guest House, unless otherwise approved by the Board of Directors.

Section 5.6 Maximum Floor Area. No Building shall have floor area which exceeds 5,000 square feet, excluding basement. The floor area of each building shall be limited to the following:

**Building Type****Maximum Floor area of
Building**

Family Residence	5,000 square feet
Guest House (only on Lot 7)	3,800 square feet
Detached Garage	1,600 square feet
Barn	2,500 square feet

The maximum aggregate floor area of all Buildings on a Lot shall not exceed 7,500 square feet, except on Lot 7, on which the maximum aggregate floor area shall not exceed 11,300 square feet.

Section 5.7 Height. The maximum height of any Building shall be 35 feet. The height of a Building for the purpose of this Section shall be measured in accordance with Gunnison County regulations, which presently limit Building height to 30 feet.

Section 5.8 Roofs. Roof material and design shall be approved by the Board. Any metal roof must have a dark, non-reflective color finish approved by the Board. It is recommended that all roof materials be non-combustible and maintained to preserve the fire resistant characteristics of the original material.

Section 5.9 Exterior Building Materials and Style. All Buildings shall have unobtrusive, primarily earth tone colors and materials that blend with the surrounding natural terrain and environment. No exterior walls shall consist of T-111 or any similar material, composition shingles or unplastered cement or similar block. No bright colors, materials or construction techniques which would unnecessarily call attention to the Building shall be permitted. A-frames or geodesic domes shall not be permitted. At least 15% of the exterior material, excluding the windows and roof, on all Buildings shall be an architecturally appropriate material different from the primary exterior material.

Section 5.10 Service or Utility Areas. All service or utility areas or yards and garbage cans and trash storage areas shall be screened from view on all sides and protected from bears, wildlife and other animals.

Section 5.11 Exterior Lighting. All exterior lighting shall be designed and directed in a manner approved by the Board. All exterior lighting or illumination on any Lot shall be so located, placed, shielded and designed to be architecturally and aesthetically in keeping with the Buildings and surroundings and to have minimum visual impact on any other Lot or any nearby land. No unsheathed exterior lighting shall be allowed. No mercury vapor or similar lighting shall be allowed.

Section 5.12 Wood Burning Devices. The number and type of woodburning devices per Lot shall be as permitted by Gunnison County regulations. All wood burning stoves shall be UL listed and approved for their proposed installation and application. All chimney caps shall have an approved spark arrester and allow for cleaning and inspection of the flue. All non-UL listed types of fireplaces shall conform to the appropriate NFPA standard(s).



Section 5.13 Fire Protection. It is required that all residential Buildings situate upon the Property have installed and maintained a water or chemical sprinkler system of a type and design, including water capacity and pressure, sufficient for fire protection of the Building. At a minimum, such system shall comply with NFPA 13D. All fire suppression systems shall be monitored by an approved central station fire alarm entity. All Buildings shall be constructed in compliance with the requirements of the Crested Butte Fire Protection District.

Section 5.14 Wildfire Safety. In the design and location of any Building within the Building Site, a wildfire safety zone will be utilized following the recommendation of the Colorado State Forest Service.

Section 5.15 Weed Control. All Lot Owners shall comply with the noxious weed control plan for Butte Pasture developed by Gunnison County's weed control specialist.

ARTICLE 6.

CONSTRUCTION AND MAINTENANCE REQUIREMENTS

Section 6.1 Excavation. No excavation shall be made on any Lot, except in connection with a Building approved by the Board in accordance with this Declaration of Protective Covenants.

Section 6.2 Electrical and Telephone Service. All electrical and telephone service shall be installed underground. Underground utilities may be constructed within the Butte Pasture access road easement.

Section 6.3 Water and Sewage Disposal Systems. All Buildings designed for human occupancy shall be connected with individual water and sewage disposal facilities. All individual water systems and sewage disposal systems shall be constructed, installed and maintained by the Lot Owner in compliance with all applicable rules and regulations of any governmental entity having jurisdiction over the Property. All sewage disposal systems shall comply with all applicable rules and regulations of Gunnison County and the State of Colorado. All water use shall comply with the Water Decree.

Section 6.4 Signs. No sign of any kind shall be displayed on any Lot, except only a sign not to exceed four square feet identifying the Owner and/or address of the Lot or a sign, not to exceed four square feet, advertising the property for sale. The Board may require all signs within Butte Pasture to be in a uniform style.

Section 6.5 Drainage. No Owner shall do or permit any work, construct any improvements or do any landscaping which shall alter or interfere with the natural drainage for the Property, except to the extent the same is approved by the Board and as authorized by any surface water discharge easement.

Section 6.6 Temporary Structures. No temporary structure, mobile home, trailer house, travel trailer or R.V. vehicle shall be permitted on any Lot, except only as may be determined to be necessary during the period of construction of the Family

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Residence and as specifically approved by the Board. Provided, however, a single motor home, travel trailer or similar vehicle of any Owner or an Owner's guest or a tent for camping shall be permitted within the Building Site of a Lot for a period of time which shall not exceed 30 days per year.

Section 6.7 Continuity of Construction. All construction, reconstruction, alterations or improvements shall be prosecuted diligently to completion and shall be completed within twelve months of the commencement thereof, unless an exception is granted by the Board for good cause.

Section 6.8 Irrigation. Irrigation for 1,333 square feet of land shall be allowed on each Lot, as provided in the Water Decree. As well, stock watering for 2 head of livestock shall be allowed on each Lot, except Lots 4 and 5, in accordance with the Water Decree. No irrigation or other water use shall violate the Water Decree.

Section 6.9 Trash. No trash, ashes, garbage or other refuse shall be allowed to accumulate or placed on any Lot or within the Property. Each Owner shall provide suitable receptacles for the temporary storage and collection of such refuse and all such receptacles shall be screened from the public view and from the wind and protected from bears, wildlife and other animals and other disturbance. All Lots shall at all times, including during construction, be maintained in a neat and attractive condition. All construction debris shall be stored within a dumpster or other comparable container or receptacle. Lot Owners shall have all household garbage removed at least weekly. The Association may, but is not obligated to, provide a central trash depository.

Section 6.10 Abandoned or Inoperable Vehicles. Abandoned or inoperable automobiles or motor vehicles of any kind, except as hereinafter provided, shall not be stored or parked on any Lot, except in a fully enclosed garage. "Abandoned or inoperable vehicle" shall be defined as any vehicle which has not been driven under its own power for a period of one (1) month or longer. A written notice describing the "abandoned or inoperable vehicle" and requesting removal thereof may be personally served upon the Owner or posted on the unused vehicle; and if such vehicle has not been removed within seventy-two (72) hours thereafter, the Association shall have the right to remove the same without liability to it, and the expense thereof shall be charged against the Owner.

Section 6.11 Noise. No horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the improvements on any Lot, shall be placed or used on any Lot.

Section 6.12 Nuisance. No obnoxious or offensive activity shall be carried on within the Property, nor shall anything be done or permitted which shall constitute a public nuisance. No noise or other nuisance shall be permitted upon the Property which is offensive or detrimental to any other part of the Property or its Owners or occupants; provided, however, that this Section shall not apply to any reasonable, usual noise or other activity involving construction of any improvements approved by the Board of Directors.



Section 6.13 Hazardous Activities. No activities shall be allowed or conducted on the Property which are or might be unsafe or hazardous to any person or property.

Section 6.14 Wetlands. All driveways, Buildings and other Improvements shall be located, designed and constructed so as to avoid affecting wetlands. The Board shall have broad discretion to reject plans and specifications for any Improvements which will impact wetlands. Lot Owners shall comply with all terms and provisions of any 404 Permit issued by the United States Army Corps of Engineers for Butte Pasture.

Section 6.15 Driveways. To the extent feasible, all driveways shall be located as depicted on the Plat. Notwithstanding any other provision in this Declaration to the contrary, the Board, to minimize impact on wetlands, avoid building constraints, preserve foliage, or for other good cause, shall have the right to review and approve the precise location of all driveways and relocate the driveways depicted on the Plat, including the right to locate or relocate a driveway on an adjacent Lot. Dust shall be controlled and minimized during all driveway construction.

Section 6.16 Tree Removal. The Board shall have broad discretion to restrict removal of trees and to require replacement of trees.

Section 6.17 Open Burning. Open burning shall be prohibited, except for recreation fires, which shall comply with all applicable regulations and permit requirements.

ARTICLE 7.

ANIMALS

Section 7.1 Domestic Household Pets. Not more than two domesticated household pets of the same species shall be allowed, kept or maintained on any Lot, except as approved by the Board. No vicious or threatening dogs shall be allowed in Butte Pasture. Except for a brief warning bark when a person approaches the Lot, no dogs shall be allowed to bark, whine or otherwise make noise which is audible on nearby Lots. Lot owners shall immediately clean up after their dogs and the dogs of their guests and invitees.

Section 7.2 Confinement of Animals. All animals shall be kept confined to the Owner's Lot or attached to a leash or other suitable control device at all times. The Owner of any animal and/or the Owner of any Lot which the animal is visiting or staying on shall at all times be personally liable and responsible for all actions of such animal and any damage caused by such animal.

Section 7.3 Livestock Animals. Except for Lots 4 and 5, from which livestock animals are prohibited, subject to the provisions of Section 7.4, up to two (2) livestock animals shall be allowed on any Lot, so long as such livestock animals are kept within a fenced or enclosed area within the Lot and such area is kept in a clean and sanitary condition at all times. No corral shall be larger than one (1) acre.

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Grazing shall be monitored at the expense of Lot Owners who pasture livestock animals by the Association and/or its consultants to avoid overgrazing. Overgrazed shall mean average stubble height of less than four (4) inches. The Association shall have the right to require livestock to be corralled or removed from Lot to avoid or mitigate overgrazing. Barn stalls and corrals shall be cleaned daily. The Association shall have the right to prohibit the keeping of livestock on any Lot or Lots on which dust, odor or flies exist. Lot Owners shall have the right to assign to other Lot Owners the right to pasture one or more livestock animals on the assignee's Lot, in which event the assignee shall have the right to keep more than two livestock animals and the number of livestock animals allowed on the assignor's Lot shall be reduced accordingly. All such assignments shall be in writing and a copy thereof shall be provided to the Association.

Section 7.4 Rules and Regulations. The Board may adopt suitable rules and regulations regarding animals and may in particular circumstances, for good cause, reduce the number and type of animals to be allowed, kept or maintained on any Lot.

Section 7.5 Impoundment of Animals. The Association is specifically empowered to impound any animal running at large within the Property. Upon impoundment, the owner of the animal, if known, shall be notified and the animal shall be taken to the nearest facility which accepts impounded animals. It is the duty of the owner of such animal to recover the animal from such facility and if the animal is not recovered by the owner in accordance with the rules and regulations of such facility, the facility may destroy the animal without liability.

ARTICLE 8.

BUTTE PASTURE ASSOCIATION

Section 8.1 Management By Association. The operation and management of Butte Pasture shall be undertaken by the Butte Pasture Association, a Colorado non-profit corporation which has been formed and will be operated as a Lot Owners' association on behalf of all Owners of Lots in Butte Pasture. The Association shall have all of the powers, authority and duties permitted pursuant to the Act necessary or convenient to manage the business and affairs of Butte Pasture. An Owner of a Lot shall automatically become a member of the Association and shall remain a member for the period of his ownership. The Owner of each Lot shall have one (1) vote. The initial Board shall have three (3) members. By resolution of the Board, the size of the Board may be increased to five (5) members. Except for members of the Board appointed by Declarant during the period of Declarant control, all Board members shall be elected by Owners of Butte Pasture Lots.

Section 8.2 Declarant Control. Declarant shall be entitled to appoint and remove the members of the Association's Board and officers of the Association during the Period of Declarant Control. The "Period of Declarant Control" begins with the appointment of the initial Board and continues until the earlier of: (a) ten (10) years from the date of recording the Declaration; (b) sixty (60) days after Declarant conveys seventy-five percent (75%) of the Lots that may be created to Owners other than Declarant; or (c) two (2) years after the last conveyance of a Lot by Declarant in the



ordinary course of business. Declarant may voluntarily relinquish such power evidenced by a notice executed by Declarant and recorded with the Gunnison County Clerk and Recorder but, in such event, Declarant may at its option require that specified actions of the Association or the Board as described in the recorded notice, during the period Declarant would otherwise be entitled to appoint and remove directors and officers, be approved by Declarant before they become effective. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots to Owners other than Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board shall be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots to Owners other than a Declarant, not less than thirty-three and one third percent (33 1/3%) of the members of the Board must be elected by Owners other than the Declarant.

Section 8.3 Association Management. The Association shall conduct the general management, operation and maintenance of Butte Pasture and the enforcement of the provisions of this Declaration and of the Articles and Bylaws of the Association, any Design Guidelines and rules and regulations adopted thereunder. The Association may assign its future income, including its rights to receive Common Expense assessments, only by the affirmative vote of the Owners of Lots to which at least 51 percent of the votes in the Association are allocated, at a meeting called for that purpose.

Section 8.4 Representative of Owner(s). If any Lot is owned by more than one person or by a partnership, joint venture, corporation, limited liability company or other entity, the Owner(s) shall designate to the Association in writing the name and address of the representative to whom all legal or official assessments, liens, levies or other notices may be mailed. Upon failure to so designate a representative, the Association shall be deemed to be the agent for receipt of notices to such Owner(s).

Section 8.5 Notice to Lot Owners. Notice of matters affecting the Association, the Common Elements or other aspects of Butte Pasture shall be given to Lot Owners by the Association or other Lot Owners in writing addressed to each Lot Owner at the address provided to the Association by each Lot Owner. If a Lot Owner has failed to provide an address, the Association shall use the address set forth in the deed or other instrument of conveyance recorded in the Gunnison County records by which the Lot Owner acquired title.

Section 8.6 Delivery of Documents by Declarant. Within sixty (60) days after the Owners other than the Declarant elect a majority of the members of the Board, the Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by the Declarant, including, without limitation, the following items:

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



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

C. The Association funds, books and records;

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

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

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

G. Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the Common Elements;

H. Any other permits issued by governmental bodies applicable to Butte Pasture and which are currently in force or which were issued within one (1) year prior to the date on which Owners other than the Declarant took control of the Association, including an assignment to the Association of all water rights for Butte Pasture under the Water Decree.

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

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

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

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

Section 8.7 Board. Except as otherwise provided in this Declaration or the Bylaws, the Board may act in all instances on behalf of the Association. Except for members of the Board appointed by the Declarant during the Period of Declarant Control, all members of the Board shall be Members of the Association, or in the event that a Member is an entity other than a natural person, such member of the Board shall be an authorized representative of such entity Member.

Section 8.8 Powers of the Board. Except for those matters expressly reserved to the Members as provided in the Association Documents and the Act and the Colorado Revised Nonprofit Corporation Act, the Board may act in all instances on behalf of the Association, to:

- A. Adopt and amend bylaws and rules, regulations and policies;
- B. Determine Common Expenses and adopt and amend budgets for revenues, expenditures and reserves and collect Assessments;
- C. Hire and terminate managers and other employees, agents and independent contractors;
- D. Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Unit Owners on matters affecting Butte Pasture;
- E. Make contracts and incur liabilities, except that any agreement for professional management of the Association's business or other contract providing for services of the Declarant shall have a maximum term of three (3) years and any such agreement shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) day's prior written notice;
- F. Regulate the use, maintenance, repair, replacement and modification of Common Elements;
- G. Cause additional improvements to be made as a part of the Common Elements;
- H. Acquire, hold, encumber and convey in the name of the Association any right, title or interest in real or personal property, except that Common Elements may be conveyed or subjected to a security interest only if (i) Members entitled to cast at least sixty-seven percent (67%) of the votes agree to that action, (ii) if all Owners of Lots to which any Limited Common Element is allocated agree in order to convey that Limited Common Element or subject it to a security interest;
- I. Grant easements, leases, licenses and concessions through or over the Common Elements;
- J. Impose charges (including without limitation, late charges and default interest) 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 or not suit was initiated, and after notice and opportunity to be heard, levy reasonable fines for violations of provisions of the Association Documents or otherwise suspend other membership privileges (except that notice and opportunity to be heard shall not be required before suspension of membership privileges for failure to pay Assessments within thirty (30) days after they become due);
- K. Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid Assessments;

- L. Provide for the indemnification of its officers and Board and maintain directors' and officers' liability insurance;
- M. Assign its right to future income, including the right to receive Assessments;
- N. Exercise any other powers conferred by the Declaration or Association Bylaws;
- O. Exercise all other powers that may be exercised in this state by legal entities of the same type as the Association, including without limitation, those powers specified by the Colorado Revised Nonprofit Corporation Act; and
- P. Exercise any other powers necessary and proper for the governance and operation of the Association.

Section 8.9 Books and Records. The Association shall make available for inspection to Owners, upon request, during normal business hours or under other reasonable circumstances, current copies of the Association Documents and the books, records and financial statements of the Association prepared pursuant to the Bylaws, and as required by the Colorado Revised Nonprofit Corporation Act. The Association may charge a reasonable fee for copying such materials. The Association shall maintain such books and records as may be required under the Act and as required by the Colorado Revised Nonprofit Corporation Act.

Section 8.10 Maintenance Accounts: Accounting. If the Association delegates powers of the Board or its officers relating to collection, deposit, transfer or disbursement of Association funds to other persons or to a Manager, then such other persons or Manager must (a) maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the other person or Manager, (b) maintain all reserve accounts of the Association separate from the operational accounts of the Association, and (c) provide to the Association no less than once per month an accounting for the previous month. In addition, the Association shall obtain an annual accounting and financial statement of Association funds (on either a review or audit basis, at the Association's discretion) and annual tax returns prepared by a certified public accountant.

Section 8.11 Grant of Utility Easements. The Declarant hereby authorizes and empowers the Association as its attorney in fact, to give and grant a utility easement for the installation, construction and maintenance of underground utilities over and across any road easement designated on the Plat. The Owner of each Lot, by virtue of such ownership, hereby authorizes and empowers the Association, as its attorney in fact, to give and grant a utility easement and right of way on each Lot 20 feet in width adjacent to the exterior boundary line of each Lot for the installation, construction and maintenance of underground utilities.

Section 8.12 Road Maintenance and Dust Control. All roads and driveways within the Property shall be constructed in accordance with the permits issued by Gunnison County, Colorado. Upon completion of construction of the roads, all

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maintenance, repairs and snow plowing and supervision shall be the duty of and vested in the Association. The Association shall:

A. Keep in good repair all roads within the Property and maintain the same in suitable condition for use by the members of the Association and drivers of fire trucks and other emergency vehicles.

B. Provide dust control not less than once a year on Butte Pasture roads and driveways and at any time that the use of any road or driveway within the Property is the cause of dust pollution, to provide dust control in the form of the use of magnesium chloride, oil treatment or other suitable dust retardant.

C. Plow snow from the roads during the winter months.

ARTICLE 9.

ASSESSMENTS

Section 9.1 Creation of Lien. Each Owner of any Lot, by acceptance of a Deed therefor, whether or not it shall be so expressed in any Deed, is deemed to covenant and agree to pay to the Association all regular, special and default assessments or charges, all of which shall be fixed, established and collected as determined by the Association. The annual, special and default assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge and continuing lien upon the Lot against which each such assessment is made until paid. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall be the personal obligation of the Owner of such Lot at the time when the assessment became due.

All such assessments shall be adopted and assessed in the manner set forth in this Article 9.

Section 9.2 Purpose of Assessments. The assessments levied by the Association shall be used for the following:

A. The improvement, maintenance and repair of and snow removal from any road serving the Property.

B. Implementation of the Butte Pasture water augmentation plan in accordance with the Water Decree.

C. The maintenance, repair or other improvement required to be made by any Owner to any Improvement on any Lot which the Owner fails to do.

D. The operation of the Association in the performance of its duties.

E. Any other purpose approved by a majority vote of the members of the Association or by a two-thirds vote of the Board.



Section 9.3 Types of Assessments. The Board of Directors shall have the authority to levy the following types of assessments for the Association:

A. **Regular Assessments.** Assessments for the business and operation of the Association pertaining to all members of the Association and to be apportioned and allocated equally among all Lots.

B. **Special Assessments.** Special assessments for the purpose of construction, improvement, repair, replacement, enlargement or other special purposes pertaining to a specific or special matter. Special assessments shall be apportioned and allocated equally among all Lots, unless such special assessment benefits substantially fewer than all Lots, in which event such special assessment shall be levied against only the Lots so benefitted. The Board shall have reasonable discretion in apportioning responsibility to pay special assessments.

C. **Road Assessments.** Assessments for the purpose of construction, improvement, repair, replacement of and/or snow removal from roads serving the Property.

Section 9.4 Regular Assessments. Prior to the beginning of each fiscal year of the Association, the Board of Directors shall prepare and adopt a budget and determine, levy and assess the Association's regular and road assessments for the following year.

Section 9.5 Special Assessments. In addition to the regular assessments set forth in Section 9.4, above, the Board of Directors may levy in any fiscal year one or more special assessments. Notice of the amount and due dates for such special assessments shall be sent to each owner at least thirty days prior to the due date.

Section 9.6 Assessment for Each Lot. All regular assessments shall be apportioned and allocated equally among all Lots. All special assessments shall be apportioned and allocated equally among all Lots unless such special assessment benefits substantially fewer than all Lots, in which event such special assessment shall be levied against only the Lots so benefitted. All road assessments shall be apportioned equally among all Lots, except for Lot 8, which uses and pays for its own separate access.

Section 9.7 Default Assessments. Any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of or because of an Owner, shall be a default assessment and shall become a lien against such Owner's Lot and may thereafter be foreclosed or otherwise collected as provided herein. Notice of the amount and due date of such default assessment shall be sent to the Owner subject to such assessment at least thirty days prior to the due date.

Section 9.8 Budget. The Executive Board shall, in advance, prepare and adopt a proposed Common Expense budget at least ninety (90) days before expiration of the fiscal year based on estimated Common Expenses. Within (30) days after the adoption of the proposed budgets, the Board shall mail, by ordinary first class mail, or otherwise deliver, a summary of the Common Expense budget to all the Owners, and shall set a date for a meeting of the Owners to consider ratification of the budget not

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less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summaries. Unless at that meeting eighty percent (80%) of all Owners reject the Common Expense budget, the Common Expense budget is ratified, whether or not a quorum of all members is present. In the event that a proposed Common Expense budget is rejected, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

Section 9.9 Nonpayment of Assessments. Any assessment, whether regular, special, road or default assessment, which is not paid within thirty days of its due date shall be deemed delinquent. In the event that any assessment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

A. Assess a late charge of at least 10% of the amount due and owing per delinquency.

B. Assess an interest rate charge from the date of delinquency at 18% per year, or such other rate not contrary to law as shall be established by the Board.

C. Suspend the voting rights of the Owner during any period of delinquency.

D. Bring an action against any Owner personally obligated to pay the delinquent assessment.

E. File a Statement of Lien with respect to the Lot, which lien may be foreclosed in the manner hereafter set forth. The Association may file a Statement of Lien by recording with the Clerk and Recorder of Gunnison County, Colorado, a written statement with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot, the name of the Association and the amount of the delinquent assessments then owing, which Statement shall be signed and acknowledged by the President, Vice President, Secretary, attorney, manager or other representative of the Association, and which shall be sent by certified mail, postage prepaid, to the Owner of the Lot at such address as the Association may have in its records as to the Owner. Ten days following the mailing of such Notice, the Association may proceed to record and foreclose the Statement of Lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Colorado. Such Statement of Lien shall secure all assessments accruing or assessed subsequent to the date of recording of such Statement of Lien until the same has been satisfied and released, together with the Association's attorneys' fees and costs incurred in the preparation and recording of such Statement of Lien and any release thereof. In any action for the payment or foreclosure of such assessment, the Association shall be entitled to recover as part of the action, the interest, costs and reasonable attorneys' fees with respect to the action.

F. The Statement of Lien shall be superior to all other liens (except government tax liens) and encumbrances on such Lot, including, for one year's regular assessment, the lien of any Mortgage.



Section 9.10 Successor's Liability for Assessment. In addition to the personal obligation of each Owner of a Lot to pay all assessments and the Association's lien on a Lot for such assessments, all successors to the ownership of a Lot shall be jointly and severally liable with the prior Owner for any and all unpaid assessments, interest, costs, expenses and attorneys' fees against such Lot.

ARTICLE 10.

WATER RIGHTS

Section 10.1 Water Augmentation Plan. The Association shall be responsible for compliance, including periodic due diligence filings, with the terms of the plan of augmentation in the Water Decree regarding water rights conveyed by Declarant to the Association, the maintenance of all records and other reporting requirements imposed by the Water Decree and the maintenance, repair and replacement of all ditches, pipes, flumes, dams, outlet works, and other physical components required for the proper implementation of the plan of augmentation. The owner or occupant of any Lot within the Property shall not take any action which contravenes the provisions and limitations contained in the Water Decree.

ARTICLE 11.

EASEMENTS

Section 11.1 Easements and Licenses. Butte Pasture is subject to easements and licenses granted by the Declarant as shown on the Plat and/or as described in this Declaration.

Section 11.2 Declarant's Rights Incident to Construction. Declarant, for itself and its successors and assigns, hereby reserves an easement for construction, utilities, drainage, ingress and egress over, in, upon, under and across the Lots and Common Elements, together with the right to store materials on the Lots and Common Elements, to build and maintain temporary walls, and to make such other use of the Lots and Common Elements as may be reasonably necessary or incident to any construction of the projects, or improvements on the Property or other real property owned by Declarant, or other properties abutting and contiguous to the Property, or to perform warranty work and repairs and construction work on the Lots and Common Elements, to store materials in secure areas and to control and have the right of access to work and repair until completion. Such rights may be exercised by Declarant from time to time, and at different times until completion of the project by Declarant or a Successor Declarant, and no failure to exercise such rights at any time or for a period of time shall constitute a waiver of the rights contained herein.

Section 11.3 Blanket Easements. There is hereby created a blanket easement upon, across, over, in and under the Property for the benefit of the Common Elements and the Lots and the structures and improvements situated on the Property for ingress and egress, landscape irrigation system, parking, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, gas, telephone, cable television and electricity, and such other purposes as deemed appropriate by the Board, except that such easements may not be utilized by the



utility providers until after receiving written approval from the Board. The Board may condition its approval on such matters as it deems appropriate, including without limitation, the location, design, alterations to existing structures and impact on the Common Elements and the project. Said blanket easement includes future utility services not presently available to the Lots which may reasonably be required in the future. By virtue of this easement, after receiving approval of the Board, it shall be expressly permissible for the companies providing utilities to erect and maintain the necessary equipment on any of the Lots and to affix and maintain electrical and/or telephone wires, circuits, conduits and pipes on, above, across and under the Lots, all in a manner customary for such companies in the area surrounding the Property, subject to approval by the Association as provided above. Upon exercise of the rights contained in this Section, the utility providers, at their sole cost and expense, shall repair (or replace if necessary) the Property and all improvements thereon to their condition as they existed prior to the utility providers performing any work.

Section 11.4 Reservation of Easements, Exceptions and Exclusions. The Association is hereby granted the right to establish from time to time, by declaration or otherwise, utility and other easements, permits or licenses over the Lots and Common Elements for the best interest of the Owners and the Association. Each Owner is hereby granted a perpetual non-exclusive right of ingress to and egress from the Owner's Lot over and across the Butte Pasture roads, which right shall be appurtenant to the Owner's Lot, and which right shall be subject to limited and reasonable restrictions on the use of Common Elements set forth in writing by the Association.

Section 11.5 Emergency Access. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons to enter upon the Property, including all Lots and all Common Elements, in the proper performance of their duties. All residences shall contain a "Knox Box" to allow rapid entry by emergency personnel. All Owners shall permit a right of entry to the Board, or any other person authorized by the Board, whether the Owner is present or not, for access through each Lot, from time to time, as may be necessary for the routine maintenance, repair, or replacement for any of the utilities or Common Elements located adjacent thereto or accessible therefrom or for making emergency repairs necessary to prevent damage to the Common Elements or to another Lot.

Section 11.6 Private Equestrian, Pedestrian, Ski and Bicycling Easement. A private equestrian, pedestrian, skiing and bicycling easement for Butte Pasture Lot Owners, their guests and invitees and the owners of the adjacent Parcel 2 and Parcel 3 shown on the Plat recorded as Reception No. 500496 is hereby dedicated as depicted on the Plat, subject to such reasonable rules and regulations as the Board may adopt.

Section 11.7 Public Equestrian, Pedestrian, Skiing and Bicycling Easement. Declarant has dedicated on the Plat a 25' wide public equestrian, pedestrian, skiing and bicycling easement adjacent to Colorado Highway 135 for the use of Gunnison County, Colorado.

Section 11.8 Access Easement for Adjacent Property. The owner(s) of the 20.11 acre OUT LOT located adjacent to the southeast boundary of the Property



shown on the Plat shall have the right to utilize Butte Pasture roads for access between Colorado Highway 135 and such OUT LOT, subject to the following conditions:

A. No more than two single family residences and accessory structures shall be accessed over Butte Pasture roads.

B. Upon issuance of a building permit to construct improvements on the OUT LOT, the owner of each single family residence constructed on the OUT LOT shall contribute to the Association the same amount of money as the Owner of each Butte Pasture Lot pays to the Association for road maintenance and snow plowing.

Section 11.9 Association Access to Pond. The Association shall have an easement across Lot 7 as shown on the Plat exclusively to maintain the water augmentation pond and related facilities.

Section 11.10 Entrance Easement. The Association shall have an easement to construct, reconstruct and maintain an entrance facility at and/or over Wapiti Way at Colorado Highway 135, which shall comply with the access requirements of the Crested Butte Fire Protection District. Such easement shall include an 800 square foot triangle over the southerly corner of Lot 1 and an 800 square foot triangle over the westerly corner of Lot 2, as shown on the Plat.

Section 11.11 Land Conservation Covenant. A Land Conservation Covenant recorded as Reception No. 541143 for the benefit of Gunnison County, Colorado, preserving the land described therein as open space.

Section 11.12 Other Easements. Declarant dedicates such other easements as are shown on the Plat.

ARTICLE 12.

ENFORCEMENT OF COVENANTS

Section 12.1 Violations Deemed a Nuisance. Every violation of this Declaration of Protective Covenants, the Articles and Bylaws of the Association or any rules and regulations adopted by the Association shall be deemed to be a nuisance and is subject to all the remedies provided for the abatement thereof.

Section 12.2 Failure to Comply. The failure to comply herewith shall be grounds for an action to recover damages, for injunctive relief, for specific performance and/or any other remedy available at law or in equity. All remedies shall be cumulative. Reasonable (30 days) notice and an opportunity for a hearing shall be provided by the Association to any delinquent Owner prior to commencing any legal proceedings, except where the safety of persons or property is threatened.

Section 12.3 Who May Enforce. Any action to enforce any violation of any provision of these Protective Covenants may be brought as follows:

A. By the Association.

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- B. By the Owner of any Lot.
- C. By any Member of the Association.
- D. By the Declarant.
- E. By Gunnison County.

Section 12.4 No Waiver. The failure of the Board, the Association or any Lot Owner to enforce or obtain compliance as to any violation shall not be deemed a waiver of the right to do so for any subsequent violation or the right to enforce any part of such documents.

ARTICLE 13.

DURATION OF COVENANTS AND PLAT

Section 13.1 Term. The covenants and restrictions in this Declaration and on the Plat shall run with and bind the Property in perpetuity, subject to the termination provisions in the Colorado Common Interest Ownership Act, Section 38-33.3-101 et. seq., Colorado Revised Statutes.

Section 13.2 Amendment. Subject to approval by Gunnison County, this Declaration of Protective Covenants and/or the Plat, or any provision thereof, may be terminated, extended, modified or amended as to the Property subject to the Protective Covenants, or any portion thereof, upon the written consent by the Owners of 67% or more of the Lots in the Property. Any such amendment shall be by an instrument or instruments duly executed, acknowledged and recorded in the records of Gunnison County, Colorado, and upon such recording shall be for the benefit of and be binding on all Owners of Lots within the Property.

Section 13.3 Amendment by Declarant. Notwithstanding the provisions of Section 13.2, above, subject to approval by Gunnison County, the Declarant reserves the right and power to modify or amend this Declaration and/or the Plat in any respect by executing and recording such amendment in the records of Gunnison County, Colorado, which shall be effective upon recording without approval by the Owner of any Lot or the holder of any Mortgage or other interest in any Lot. This right to modify or amend this Declaration or the Plat in whole or in part, at any time and from time to time, shall be effective until more than one-half of all Lots within the Property have been conveyed by a recorded instrument of conveyance to a person or persons other than the Declarant.

Section 13.4 Plat Amendments. Notwithstanding any other provision in the Covenants to the contrary, Declarant reserves the right to amend the Plat until one year following completion of all Butte Pasture road and utility construction. Such Plat amendment(s) may include but shall not be limited to relocation of roads, public trails and easements, Lot boundaries, Building Sites, driveways and easements. No Lot Owner shall have any right to review and/or approve any such Plat amendment except that no modification by Declarant of any Building Site shall be effective

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without the written approval of the Owner of the Lot on which such Building Site is located. Except as provided in the preceding sentence, all such Plat amendments shall be effective upon recording without approval by the Owner of any Lot or the holder of any Mortgage or other interests in any Lot.

Section 13.5 Mortgage Holder Approval Not Required. The Declaration and/or Plat may be amended as set forth in this Article 13 of this Declaration and such amendment shall be effective against the holders of Mortgages and other interests encumbering Lots in the subdivision notwithstanding the fact that such holders of Mortgages and other interests have not approved such amendment.

ARTICLE 14.

PRINCIPLES OF INTERPRETATION

Section 14.1 Severability. This Declaration of Protective Covenants, to the extent possible, shall be construed so as to give validity to all of the provisions hereof. If any provision of this Declaration of Protective Covenants is determined to be invalid, unenforceable or prohibited by any court, the same shall not affect any other provision or section hereof and all other provisions and sections shall remain in full force and effect.

Section 14.2 Construction. In interpreting words herein, unless the context shall otherwise provide or require, the singular shall include the plural, the plural shall include the singular and the use of any gender shall include all genders.

Section 14.3 Headings. The headings on any section or article are included only for purposes of convenient reference and shall not affect the meaning or interpretation of this Declaration of Protective Covenants.

Section 14.4 Written Notice. All notices required under this Declaration shall be in writing. Notice to any Owner shall be considered delivered and effective upon personal delivery or five days after mailing by certified or registered mail, return receipt requested, to the address of such Owner on file in the records of the Association at the time of such mailing.

Section 14.5 Limitation of Liability. Neither the Association nor any officer or director, shall be liable to any party for any action or for any failure to take any action with respect to any matter arising by, through or under this Declaration if the action or failure to act was made in good faith. The Association shall indemnify all officers and directors with respect to any action taken in their official capacity as provided in the Articles of Incorporation and Bylaws of the Association.

Section 14.6 Attorneys' Fees. If any legal action is commenced or maintained in court, whether in law or in equity, as to the interpretation, enforcement, construction or the determination of the rights and duties arising under this Declaration or any document provided for herein or relating hereto, the prevailing party in any such action shall be entitled to recover reasonable attorneys' fees together with all reasonable costs and expenses incurred.



Section 14.7 Applicable Law. The exclusive proper jurisdiction and venue for any action pertaining to the interpretation or enforcement of the Association documents shall be the County Court or District Court of Gunnison County, Colorado, unless otherwise chosen by the Association.

Section 14.8 Interest. Any sums, amounts or monies due and owing to the Association under the Association documents shall bear interest at 18% per year from the date due until paid, or at such other rate as the Board shall establish.

ARTICLE 15.

RIGHTS RESERVED TO DECLARANT

Section 15.1 Development Rights and Special Declarant Rights. The Declarant specifically reserves the right to exercise in any order all Development Rights and Special Declarant Rights as set forth in the Colorado Common Interest Ownership Act and this Declaration for 20 years following the recording of this Declaration or for the maximum time limit allowed by law, whichever comes first, including, without limitation, the following:

- A. The right to amend the Declaration or Plat as set forth in Article 13.
- B. The right to appoint or remove any officer of the Association or any Director of the Association during the Declarant Control Period.
- C. The right to complete or make any Improvements as set forth on the Plat, the Association Documents or as required by Gunnison County.
- D. The right to maintain signs to advertise the subdivision.
- E. The right to dedicate a future public or private easement.
- F. Declarant hereby reserves easements 20 feet in width for the installation of underground utilities around the perimeter of each Lot. Upon completion of any installation or maintenance of utilities, the property disturbed or damaged by such installation or maintenance shall be restored to a condition as near as reasonably possible as it was prior to the installation or maintenance of the utilities. Declarant reserves the right to allow any utility provider to utilize the easements reserved in this paragraph and/or to assign such easements to the Association.
- G. The Plat depicts the general location of all road easements and public trail easements. Declarant reserves the right to adjust up to 100 feet in either direction the location of any road easement or public trail easement shown on the Plat to minimize impact on wetlands, avoid building constraints, or for other good cause.
- H. Declarant, for itself and its successors and assigns, hereby reserves an easement for construction, utilities, drainage, ingress and egress over, in, upon, under and across the Lots and Common Elements, together with the right to store materials on the Lots and Common Elements, to build and maintain temporary walls,



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and to make such other use of the Lots and Common Elements as may be reasonably necessary or incident to any construction of the roads, utilities, projects, or Improvements on the Property, or other properties abutting and contiguous to the Property, or to perform warranty work and repairs and construction work on the Lots and Common Elements, to store materials in secure areas and to control and have the right of access to work and repair until completion. Such rights may be exercised by Declarant from time to time, and at different times until completion of the project by Declarant or a Successor Declarant, and no failure to exercise such rights at any time or for a period of time shall constitute a waiver of the rights contained herein.

I. Declarant reserves the right to dedicate for the use of the owner of any property contiguous to Butte Pasture the right to use the private equestrian, pedestrian skiing and bicycling easement shown on the Plat, which shall be used subject to such reasonable rules and regulations as the Board may adopt.

Section 15.2 Exercise of Development Rights and Special Declarant Rights.

Declarant's exercise of any rights or powers under Section 15.1 shall be effective without the approval or consent of any Lot Owner, Mortgage holder or other person or entity holding an interest in a Lot. Without affecting the validity of the prior sentence, every Lot Owner, Mortgage holder or other person or entity holding an interest in a Lot agrees to execute, acknowledge and deliver to Declarant any document reasonably requested to confirm the provisions of this Section 15.2 or any other provision of this Declaration.

IN WITNESS WHEREOF, the Declarant has executed this Declaration of Protective Covenants the day and year first above written.

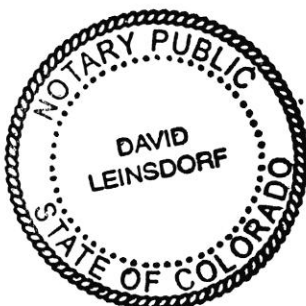
Butte Realty Co., a Colorado corporation

By: Robert R. Stuplich
Robert R. Stuplich, President

STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

The above and foregoing Declaration of Protective Covenants was acknowledged before me this 20th day of April, 2004 by Robert R. Stuplich, President of Butte Realty Co., a Colorado corporation.

Witness my hand and official seal. My Commission expires: 04/13/04.



David Leinsdorf
Notary Public

EXHIBIT A

A parcel of land located in the west half of Section 7, Township 14 South, Range 85 West, of the 6th Principal Meridian, and in the east half of the southeast quarter of Section 12, Township 14 South, Range 86 West, of the 6th Principal Meridian, more particularly described as follows:

Beginning at the west quarter corner of said Section 7; thence S00°30'24"E a distance of 424.00 feet; thence S42°13'48"W a distance of 1145.98 feet; thence S47°05'28"E a distance of 300.99 feet; thence S42°37'18"E a distance of 306.36 feet; thence S35°29'14"E a distance of 277.82 feet; thence S38°21'23"E a distance of 24.59 feet; thence N37°16'35"E a distance of 1442.54 feet; thence S89°37'09"E a distance of 505.63 feet; thence N00°22'51"E a distance of 1484.58 feet; thence S89°04'19"W a distance of 1223.89 feet; thence S00°17'45"W a distance of 660.85 feet to the point of beginning,

County of Gunnison,
State of Colorado

The described parcel contains 62.716 acres or 2,731,939 square feet, more or less.