Section 5.4 Maximum Density. The maximum gross floor area of all Buildings constructed within the Lot, including any Single Family Residence, Efficiency Dwelling Unit and Garage, shall not exceed 6500 square feet of gross floor area, excluding basements.

Section 5.5 Height. The maximum height of any Building shall be 32 feet.

Section 5.6 Roof Pitch. The minimum roof pitch of the roof of any building shall be a ratio of 5:12. Provided, however, the Architectural Control Committee may allow a lesser roof pitch as to roof over any dormers, porch, deck, greenhouse, sun room or similar type structure or addition to an existing building.

Section 5.7 Exterior Building Materials and Style. All Buildings, including roofs and chimneys, shall be built in an exterior style and with colors and materials harmonious to the area and all Buildings and structures within a the Lot shall be similar in style. All colors of exterior walls, roofs and chimneys will be natural or earth tones in color to blend with the natural surroundings. All buildings shall be constructed upon said Lots shall be of log, log siding, or a natural wood siding, building stone or of any other siding which shall conform with other construction in the Property, and with the natural surroundings.

Section 5.8 Exterior Lighting. All exterior lighting shall be designed and directed in a manner approved by the Architectural Control Committee. 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 pollution or impact on any other Lot within the Property.

Section 5.9 Fireplaces. Any fireplace or woodburning stove within any Building shall be equipped with emission controls providing maximum protection as to the emission of pollutants and shall comply with all applicable laws, rules and regulations of Gunnison County, Colorado and the State of Colorado.

## ARTICLE 6.
## HOMESTEAD PROPERTY OWNERS' ASSOCIATION

Section 6.1 Government of Association. Homestead Property Owners' Association, a Colorado non-profit corporation, shall be the governing association as to the Property and shall exercise all of the duties, privileges and obligations set forth in this Article 6, and the Articles of Incorporation and Bylaws of the Association and any other Association Documents.

Section 6.2 Members. Each Owner shall be a Member of the Association. No Owner, whether one or more persons or entities, shall have more than one membership per Lot owned by such Owner, but all persons owning each Lot shall be entitled to the rights of membership and the use and enjoyment appurtenant to the ownership of each

Lot. In the event that a portion of a single Lot is owned by the same owner of an adjoining Lot the owner of such portion of a Lot shall be entitled to a one half membership for the portion of an adjoining Lot.

Section 6.3 Termination of Membership. The right of membership in the Association and the status as a Member shall terminate upon the termination of status as an Owner of a Lot. Upon conveyance, sale or assignment of the Owner's interest, the selling Owner shall be relieved of liability for assessments levied from and after the date of such sale or conveyance; provided, however, that no such sale or conveyance of any ownership shall relieve an Owner of liability arising prior to the date of such sale or conveyance.

Section 6.4 Voting Rights. All Owners of Lots within The Homestead and/or the Plat of Kerley Property SE¼, Section 22, T50N, R1E, NMPM, Gunnison County, Colorado, shall be Members of the Association. Each Lot or a portion of a Lot shall be entitled to a vote in the Association as set forth in Section 6.2 above. The one vote for each Lot or ½ vote for a portion of a Lot shall be exercised by the Owner and when more than one person or entity holds an interest in the Lot or a portion of the Lot, the vote for the Lot or a portion of the Lot shall be exercised as the Owners may determine among themselves, but the vote for the Lot or portion of the Lot shall be cast by only one person.

Section 6.5 Compliance with Documents. Each Owner shall abide by and have the benefit from the provisions, covenants, conditions and restrictions contained in the Association Documents.

Section 6.6 Rules and Regulations. The Association shall, from time to time, adopt, amend and repeal rules and regulations to be known as "The Homestead Rules" which may include the use of roads and easements within the Property, the maintenance and keeping of animals within the Property, and reasonable standards for the care, maintenance, and use of all Lots within the Property.

Section 6.7 Roads and Streets. All roads and streets within the Property are private roads and the use and maintenance thereof are governed by the Association. The Association, for and on behalf of its Members, shall be responsible for the reasonable usage of any such private road or street and for the proper maintenance of all private roads and streets.

## ARTICLE 7.
## ASSESSMENTS

Section 7.1 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: (1) All regular assessments or charges; and (2) any special assessments or charges; and (3) any default assessments or charges, all of which shall be fixed, established and collected as determined by the Association. The annual,

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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.

Section 7.2 Purpose of Assessments. The assessments levied by the Association shall be limited to and used exclusively for the following:

7.2.1 The maintenance, repairs, snow removal and improvement of any private road or street within the Property.

7.2.2 Any costs and expenses pertaining to the operation of the Association in the performance of its duties.

7.2.3 Any other purpose approved by a majority vote of all Members of the Association.

Section 7.3 Regular Assessments. The Board of Directors shall prepare a budget prior to the beginning of each fiscal year of the Association and not less than thirty days prior to the commencement of each fiscal year, the Board shall adopt a final budget and shall determine, levy and assess the Association's regular assessments for the following year.

Section 7.4 Special Assessments. In addition to the regular assessments set forth in Paragraph 7.3 above, the Board of Directors may levy in any fiscal year one or more special assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement within or upon any private roads or streets or to make up any shortfall in the current year's budget. 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 7.5 Association Assessment Formula. All regular and special assessments shall be apportioned and allocated as determined by the Board of Directors of the Association considering the following:

7.5.1. Assessments shall be apportioned between Owners of an improved Lot residing full time in the Subdivision, Owners of an improved Lot residing on a seasonal basis in the Subdivision and Owners of individual unimproved Lots.

7.5.2 A factor of 2.0 will be awarded to full time residential Owners, a factor of 1.0 will be awarded to seasonal residential Owners and a factor of 0.5 will be awarded to Owners of unimproved Lots. For example, if the total assessment of the Association was $4,300.00, each full time residential Owner

would pay $200.00, each seasonal residential Owner would pay $100.00 and each Owner of unimproved Lot would pay $50.00.

7.5.3 The owner of one or more contiguous Lots or portions of contiguous Lots shall be considered as one Owner for the purpose of this Section 7.5, except as to the Owner of an unimproved Lot as provided above.

7.5.4 A full time residential Owner shall be an Owner whose residence is occupied on a year around basis (whether by the Owner, a member of his or her family or by a tenant) and a seasonal residential Owner shall be an Owner whose residence is occupied only on a seasonal basis (whether by the Owner, a member of his or her family or by a tenant).

Section 7.6 Default Assessments. Any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the 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 7.7 Nonpayment of Assessments. Any assessment, whether regular, special 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:

7.7.1 Assess a late charge of not to exceed 10% of the amount due and owing for each delinquency.

7.7.2 Assess an interest rate charge from the date of delinquency until paid at the rate of 1.5% per month.

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

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

7.7.5 File a Statement of Lien with respect to the Lot and foreclose such lien 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 or Secretary 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. Thirty days following the mailing of such Notice, the Association may proceed to 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.

7.7.6 The Statement of Lien shall be superior to all other liens and encumbrances on such Lot, except only any tax and assessment liens levied by any governmental entity and the lien of any First Mortgage. Provided, however, at all times the lien of the Association shall have priority and status over any other lien or Mortgage as provided by the Colorado Common Interest Ownership Act, as it now exists and as it may hereafter be amended.

Section 7.8 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 8.
## ENFORCEMENT OF COVENANTS

Section 8.1 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 8.2 Failure to Comply. The failure to comply herewith shall be grounds for an action to recover damages, or for injunctive relief or for specific performance, or any of them. Reasonable notice and an opportunity for a hearing shall be provided by the Association to any delinquent Owner prior to commencing any legal proceedings.

Section 8.3 Who May Enforce. Any action to enforce any violation may be brought by the Association in the name of the Association on behalf of the Association and/or the individual Lot Owners, or by any Lot Owner.

Section 8.4 No Waiver. The failure of the Board, the Association, or any other 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.

Section 8.5 Attorneys Fees. In the event of any legal action to enforce any of the provisions of the Association Documents, or for damages, or to restrain the violation of the Association Documents, whether judicial, non-judicial, administrative, the prevailing party shall be entitled to recover all costs, fees and expenses incurred by it in such action, including all reasonable attorneys fees that it may incur. Such reasonable attorneys fees shall include any legal assistance given to the Association as above provided whether or not legal proceedings are actually commenced.

## ARTICLE 9.
## DURATION OF COVENANTS

Section 9.1 Term. The term of this Declaration of Protective Covenants, and any amendments or supplements thereto, shall be from the date of recording in the records of Gunnison County, Colorado and until January 1, 2030. Thereafter, this Declaration of Protective Covenants shall be automatically extended for five successive periods of ten years each, unless otherwise terminated or amended as hereafter provided.

Section 9.2 Amendment. This Declaration of Protective Covenants, or any provision thereof, may be terminated, extended, modified or amended as to the Property, or any portion thereof, upon the written consent by the Owners of 75% or more of the Lots in the Property. Any such amendment shall be by an instrument 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.

## ARTICLE 10.
## PRINCIPLES OF INTERPRETATION

Section 10.1 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 10.2 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.

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Section 10.3 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 10.4 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 10.5 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 10.6 Attorneys' Fees. The Association shall be entitled to reasonable attorneys' fees, as well as its reasonable costs and expenses, incurred by it in any proceeding or action to interpret or enforce any provision of the Association documents.

Section 10.7 Applicable Law. The proper jurisdiction and venue for any action pertaining to the interpretation or enforcement of the Association documents shall be the District Court of Gunnison County, Colorado, unless otherwise chosen by the Association.

Section 10.8 Interest. Any sums, amounts or monies due and owing to the Association under the Association documents shall bear interest at 1.5% per month (18% per year) from the date due until paid.

Section 10.9 Partition of Lots. No Lot may be partitioned, separated or subdivided from any other part thereof.

## ARTICLE 11.
## IMPROVEMENTS

Section 11.1 Existing Structures. Any existing structures, including Single Family Residences, Efficiency Dwelling Units, Garages and other improvements situate on a Lot within The Property, existing on the date of adoption of this Declaration of Protective Covenants and which do not conform with these Protective Covenants may be continued as a non conforming use but subject to the following specific conditions:

11.1.1 No structure or improvement on any Lot may be enlarged except in compliance with these Protective Covenants.

11.1.2 If any structure or improvement which does not conform to these Protective Covenants is destroyed by fire or other calamity or by act of God to the extent of 60% or less, the structure or improvement and the use thereof may be continued and the structure or improvement may be restored, but not enlarged, provided that the restoration is commenced within one year after the date of destruction and diligently pursued to completion.

11.1.3 If any structure or improvement upon any Lot which does not conform to these Protective Covenants is destroyed by fire or other calamity or by act of God to the extent of more than 60%, the structure or improvements, and the use thereof, shall not be restored and the same shall not be rebuilt or reconstructed except in full compliance with these Protective Covenants.

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

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AMENDMENT NO. 1
to the
AMENDED DECLARATION OF PROTECTIVE COVENANTS
OF
THE HOMESTEAD

The undersigned Robert G. Park, President and Director, and Norma Johnston, Director, of the Homestead Property Owners' Association according to the Plat of record in the office of the Gunnison County Clerk and Recorder's Office of Gunnison County, Colorado, do hereby confirm and approve the following Amendment No. 1 to the Amended Declaration of Protective Covenants of the Homestead recorded March 16, 1998 at Reception No. 482362 at page 543.

Paragraph 7..5.2 on page 11 is hereby amended to read as follows:

A factor of 2.0 will be awarded to full time residential Owners, a factor of 1.5 will be awarded to seasonal residential Owners and a factor of 0.5 will be awarded to Owners of unimproved Lots. For example, if the total assessment of the Association was $5,000.00, each full time residential Owner would pay $233.00, each seasonal residential Owner would pay $174.00 and each Owner of unimproved Lot would pay $58.00.

This amendment was passed by a vote of 90% of the property owners on September 24, 1998. Voting Ballots are on record at the office of the Registered Agent, Sheryl Ann Somrak.

Dated this 24th day of September, 1998.

Robert G. Park, President and Director

Norma Johnston, Director

STATE OF COLORADO )
) ss.
County of Gunnison )

The foregoing instrument was acknowledged before me this 24th day of September, 1998 by Robert G. Park, President and Director and Norma Johnston, Director.

My Commission expires: MY COMMISSION EXPIRES 11/23/98
Witness my hand and official seal.

SHERYL ANN SOMRAK NOTARY PUBLIC STATE OF COLORADO

Notary Public

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**AMENDMENT NO. 2**
to the
AMENDED DECLARATION OF PROTECTIVE COVENANTS
OF
THE HOMESTEAD

**WHEREAS,** the Amended Declaration of ProtectiveCovenants of the Homestead recorded March 16, 1998 at Reception No. 482362 at page 543 provides that it may be amended by an instrument signed by not less than 75% of the lot owners. The undersigned Harold Seiff, President and Director, and Richard Young, Director, of the Homestead Property Owners' Association according to the Plat of record in the office of the Gunnison County Clerk and Recorder's Office of Gunnison County, Colorado, do hereby confirm and approve the following Amendment No. 2 to the Amended Declaration of Protective Covenants of the Homestead.

A new sub-section 2.24 is added to Section 2 as follows:

**Section 2.24** "Natural Grade" shall mean the surface of the natural, undisturbed dirt, gravel, or sand which is not more than four (4) feet outside of the stem wall or exterior foundation wall of a proposed structure. Any measurement made from the "Natural Grade" shall not include the height of rocks or stone outcroppings.

A new sub-section 3.7 is added to Section 3 as follows:

**Section 3.7** "Domesticated Animals". No animal, livestock or poultry of any kind shall be raised, bred or kept on any lot or any improvements thereon; except that household pets may be kept if there be no commercial uses of such pets.

Section 5.5 is hereby amended with the following underlined language:

**Section 5.5 Height.** The maximum height of any Building shall be thirty-two (32) feet measured from the "Natural Grade" to the highest point of the building, excluding chimneys or surface vents.

**NOW THEREFORE,** this amendment is passed by a vote of 86% of the property owners effective February 17, 2004. Original Voting Ballots are on record at the office of the Registered Agent, Sheryl Ann Somrak.

Dated this 17th day of February, 2004.

Harold Seiff, President and Director

Richard Young, Director

Notary Acknowledgement is attached as page 2.

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**AMENDMENT NO. 3**
to the
AMENDED DECLARATION OF PROTECTIVE COVENANTS
OF
THE HOMESTEAD

**WHEREAS,** the Amended Declaration of Protective Covenants of The Homestead (hereinafter "Amended Covenants") recorded March 16, 1998 a Reception No. 482362 at page 543 provided that it may be amended by an instrument signed by not less than 75% of the lot owners. The undersigned Harold Seiff, President and Director, and Richard Young, Director, of The Homestead Property Owners' Association according to the Plat of record in the office of the Gunnison County Clerk and Recorder of Gunnison County, Colorado, do hereby confirm and approve the following **Amendment No. 3** to the Amended Covenants of The Homestead.

Article 5 of the Amended Covenants is hereby replaced effective October 23, 2004 in its entirety with the attached **Exhibit A,** being Article 3 of the Design Guidelines and shall apply to all construction commenced after November 1, 2004.

**NOW, THEREFORE,** this Amendment No. 3 is passed by a vote of 81% of the property owners. Original Voting Ballots are on record at the office of the Registered Agent and Secretary/Treasurer, Sheryl Ann Somrak.

Dated this 7th day of January, 2005.

Harold Seiff, President and Director

Richard Young, Director

STATE OF COLORADO )
) ss.
County of Gunnison )

The foregoing instrument was acknowledged before me this 7th day of January, 2005 by Harold Seiff as President and Director and Richard Young, Director, of The Homestead Property Owners' Association.

Witness my hand and official seal.
My commission expires: 11/23/2006

SHERYL ANN SOMRAK
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires 11/23/2006

Notary Public

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**EXHIBIT A TO AMENDMENT NO. 3**
to the
AMENDED DECLARATION OF PROTECTIVE COVENANTS
OF
THE HOMESTEAD

**ARTICLE 5**
**DESIGN REQUIREMENTS**
**Being Article 3 of the Design Guidelines**

Section 3.1 Building Square Footage. The following minimum and maximum Building Square Footage is established for all buildings, unless otherwise approved by the ACC:

| | |
|---|---|
| Family Residence: | Gross residential floor area shall not be less than 1,500 square feet nor more than 4,000 square feet. |
| Efficiency Dwelling Unit: | No minimum or maximum density. |
| Garage: | A single vehicle garage is required as a minimum. |

The maximum gross floor area of all Buildings constructed within the Lot, including any Single Family Residence, Efficiency Dwelling Unit and Garage, shall not exceed 6,500 square feet, excluding basements.

Section 3.2 Height. The maximum height of any Building shall be thirty (30) feet but shall not exceed any lesser restriction established by Gunnison County regulations. Height shall be measured from the "Natural Grade" to the Highest Point of the Building. The "Natural Grade" shall mean the surface of the natural, undisturbed dirt, gravel, or sand which is not more than four (4) feet outside the stem wall or exterior foundation wall of a proposed structure. Any measurement made from the "Natural Grade" shall not include the height of rocks or stone outcroppings. The Highest Point shall not be measured to the chimney.

Section 3.3 Roof. In general, relatively low profile buildings with a variety in massing and rooflines are desired. Expansive roof areas with long, unbroken ridgelines should not be constructed. Large eave overhangs are encouraged. Gable or hipped roofs are to be used. The minimum roof pitch of any Building shall be a ratio of 6:12; however, the ACC may allow a lesser roof pitch for dormers, porches, decks, greenhouses, sunrooms or similar type structure, but not to be less than 4:12. Roof material may be composition shingle, metal, fire retardant wooden shingle, stone, or other material. All flashing shall be painted to match roof colors, unless otherwise approved by the ACC. Skylights are subject to approval of the ACC.

Section 3.4 Exterior Building Materials and Style. All Buildings, including roofs and chimneys, shall be built in a style and with colors and materials harmonious to the area. All Buildings and structures within a Lot shall be similar in style. Colors of exterior walls, roofs and chimneys will be natural or earth ones to blend with the natural surroundings. All buildings shall

be of log, log siding, natural wood, stucco, fiber-cement siding or shingles, or stone that is harmonious with the natural surroundings. Metal, plastic, fiberglass, material similar to T-111 siding, composition shingles, wood panels, cement or cement blocks not covered with stucco, or roofing paper shall not be used for exterior walls or surfaces. Rock or stone walls should be set in a random pattern. Å-frames, geodesic domes or yurts are not permitted.

Section 3.5 Foundations. Foundations not covered with stone or wood will be painted to blend with the surroundings.

Section 3.6 Exterior Lighting. All exterior lighting shall be directed in a manner approved by the ACC. All illumination on any Lot shall be so located, placed, shielded and designed to be architecturally and aesthetically in keeping with the Buildings and surroundings. The use of "Down-Lighting" shall be used outside to have minimum visual impact on other Lots within The Homestead.

Section 3.7 Electrical and Telephone Service. All electrical and telephone service shall be installed underground.

Section 3.8 Landscaping and Plant Materials. Due to the short growing season, damaged native plant life is very slow to recover. Therefore, owners should limit the area contractors use during construction. Utility cuts, leach fields, and construction areas are required by Gunnison County Regulations to be landscaped and seeded within two (2) years of commencement of construction. This is considered a minimum landscaping plan. Owners are encouraged to cover damaged areas with topsoil, seed and landscape as rapidly as possible and use native plants to enhance the natural landscape.