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Archuleta County

MASTER DECLARATION

FOR

ASPEN VILLAGE

PLANNED DEVELOPMENT

Return: Pagosa Partners Inc
PO Box 4219
Pagosa Springs CO 81157





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**MASTER DECLARATION
FOR
ASPEN VILLAGE PLANNED DEVELOPMENT**

This Master Declaration (this "Master Declaration" or this "Declaration") is made as of the ____ day of _____, 2005, by PAGOSA PARTNERS I, INC., a Colorado Corporation, ("Declarant"), whose address is P.O. Box 4219, Pagosa Springs, Colorado 81147.

GENERAL

Section 1.1 Property. Declarant is the owner of the real property described as the Aspen Village Planned Unit Development, according to the plat thereof filed of record in the real property records of Archuleta County, Colorado on _____, 2005, as Reception No. _____, which is hereinafter defined in this Declaration as the "Project." Declarant intends that the Project be developed as a balanced, planned community accommodating a mix of residential, commercial and mixed-use lots.

Section 1.2 Purposes of Declaration. This Declaration is executed (a) in furtherance of a common and general plan for those portions of the Property which may become part of the Project; (b) to protect and enhance the quality, value, desirability and attractiveness of all property which becomes part of the Project; (c) to provide for mutual, common and reciprocal rights and easements in certain portions of the Property which becomes part of the Project; and (d) to define certain duties, powers and rights of Owners.

Section 1.3 Declaration. Declarant, for itself, its successors and assigns, hereby declares that the Project and each part or parcel thereof, shall, from the date the same becomes subject to this Declaration, be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restrictions, easements, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in this Declaration, for the duration thereof, all of which are declared to be a part of, pursuant to, and in furtherance of a common and general plan of development, improvement, enhancement and protection of the Project. The provisions of this Declaration are intended to and shall run with the land and, until their expiration in accordance with Section 8.1 hereof, shall bind, be a charge upon and inure to the benefit of (a) the Property (b) Declarant and its successors and assigns, and (c) all Persons having or acquiring any right, title or interest in the Project or any part or parcel thereof or any Improvement thereon, and their heirs, personal representatives, successors and assigns.

Section 1.4 CCIOA Exemption. The Project is a planned community which is exempt from the provisions of the Colorado Common Interest Ownership Act, pursuant to C.R.S. §38-33.3-116(2). Notwithstanding the foregoing, this Declaration incorporates certain terms and concepts contained within CCIOA.



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Section 1.5 No Merger. It is the intention of Declarant that the covenants, conditions, restrictions, limitations, reservations, exceptions, easements, equitable servitudes and other provisions set forth in this Declaration shall continue to burden or benefit, as applicable, all of the Project.

ARTICLE 2 DEFINITIONS

Unless otherwise expressly provided herein, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified.

Section 2.1 Affiliate. "Affiliate" shall mean any Member or Manager of Declarant or any Person controlled by or under common control with Declarant or any such Member.

Section 2.2 Agencies. "Agencies" shall mean, collectively, the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD), the Veterans Administration (VA), the Colorado Housing Financing Authority (CHFA) or any other public, quasi-public or private agency or entity which performs (or may in the future perform) functions similar to those currently performed by the entities specifically listed herein.

Section 2.3 Association. "Association" shall mean the "Master Association" that may hereafter be established by the Declarant for the purpose of exercising the rights and obligations of the Declarant under this Declaration.

Section 2.4 CCIOA. "CCIOA" shall mean the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101, et seq (the "Act" or "CCIOA") as amended from time to time.

Section 2.5 Commercial Site. "Commercial Site" shall mean all of the Lots shown in the PD Plat with the exception of the following Lots: Block 6, Lot 1; Block 2, Lot 1; and Block 1, Lot 1 which have been designated Residential Sites. A Commercial Site shall be designated for commercial/office uses.

Section 2.6 Common Elements. "Common Elements" shall mean all general common elements as designated on a recorded subdivision plat of any portion of the Property or as indicated in this Declaration, including all real estate and improvements within the Property that may be owned by the Association. Common Elements shall include, but not be limited to, the area comprising the Right of Way, common signage and entrance features, and such other common elements as may be conveyed, granted or dedicated to the Association by Declarant pursuant to Declarant's reserved rights, namely, trails and Open Space.

Section 2.7 Declarant. "Declarant" shall mean Pagosa Partners I, Inc., a Colorado limited liability company, its successors and assigns. A Person shall be deemed a



"successor or assign" of Declarant only if specifically designated in a written and duly Recorded instrument as a successor or assign of Declarant under this Declaration, and shall be deemed a successor or assign of Declarant only as to the particular rights or interests of Declarant under this Declaration which are specifically designated in the written instrument. Notwithstanding the foregoing, however, a successor to Pagosa Partners I, Inc., by consolidation or merger, and any Person acquiring all or substantially all of the right, title and interest of Pagosa Partners I, Inc. in the Property by foreclosure, judicial sale, bankruptcy proceedings or by other similar involuntary transfer, shall automatically be deemed a successor or assign of Pagosa Partners I, Inc. as Declarant under this Declaration.

Section 2.8 Declarant Approval Period. "Declarant Approval Period" shall mean the period of time commencing on the date of Recordation of this Declaration and expiring on the earlier of (a) seven years from the date hereof or (b) the date upon which the last Privately Owned Site within the Project has been sold and conveyed to any Owner other than Declarant or an Affiliate of Declarant. Notwithstanding the foregoing, the Declarant Approval Period may expire on an earlier date at the discretion of the Declarant as provided in Section 3.4.

Section 2.9 Declaration. "Declaration" shall mean this instrument as the same may be amended from time to time.

Section 2.10 Design Review Criteria. "Design Review Criteria" shall mean the Design Review Criteria for Aspen Village Planned Development as the same may be amended from time to time.

Section 2.11 DRC. "DRC" shall mean the Design Review Committee provided for in Article 5 of this Declaration.

Section 2.12 Dwelling Unit. "Dwelling Unit" shall mean a residential building designed for occupancy on a Residential Site, but excluding any accessory building.

Section 2.13 Expansion Property. "Expansion Property" means the real property described on Exhibit A attached hereto which Declarant may submit to the terms of this Declaration by one or more supplemental Declarations. Declarant, however, is not obligated to submit the Expansion Property to this Declaration.

Section 2.14 First Mortgage. "First Mortgage" shall mean a Mortgage that has priority of Record over all other Recorded liens except those liens made superior by statute (such as general ad valorem tax liens and special assessments) and except as otherwise provided in this Declaration.

Section 2.15 First Mortgagee. "First Mortgagee" shall mean the Mortgagee under a First Mortgage.



Section 2.16 Improvements. "Improvements" shall mean all structures and any appurtenances thereto of every type or kind, including, but not limited to, buildings, outbuildings, swimming pools, patio covers, awnings, painting or other finish material of any exterior surfaces of any visible structure, additions, walkways, bicycle and/or equestrian trails, sprinkler pipes, utility lines, facilities and appurtenances, satellite dishes, antennae, garages, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, fixtures, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior tanks, solar equipment, and exterior air conditioning and water softener fixtures.

Section 2.17 Mortgage. "Mortgage" shall mean an interest in real estate or personal property created by contract or conveyance which secures payment or performance of any obligation. The term "Mortgage" includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of leases or rents intended as security, and any other consensual lien or title retention contract intended as security for an obligation

Section 2.18 Mortgagee. "Mortgagee" shall mean any Person named as a mortgagee or beneficiary, or in a similar capacity, under any Mortgage or any successor to the interest of any such Person under such Mortgage.

Section 2.19 Multifamily Site. "Multifamily Site" shall mean a platted parcel of land within the Property as shown in the recorded PUD. which has been further subdivided to provide for the construction of Multifamily residences (including town homes, patio homes, and/or condominiums). The Multifamily Sites shall be permitted to be governed by their own Sub-Associations; however, subject to the restrictions and conditions of this Declaration. The Sub-Association shall exercise the vote and shall pay the assessments allocated to the Multifamily Site.

Section 2.20 Notice and Hearing. "Notice and Hearing" shall mean a written Notice given to an Owner in the manner for giving notices provided in this Declaration which Notice shall describe the nature of the matter to be heard and specify the date, time and place for hearing of the matter and a Hearing, at the date, time and place specified in the Notice, before the DRC and/or Association, as the case may be, who shall hear the matter and issue a written decision with respect to the matter.

Section 2.21 Notice of Completion. "Notice of Completion" shall mean written notice to the DRC of the completion of any Improvement to Property pursuant to Article 5 of this Declaration.

Section 2.22 Open Space. "Open Space" shall mean Open Space A and Open Space B as designated on the Plat. The use of Open Space is restricted to recreational purposes as provided in the Plat and this Declaration. Declarant reserves the right to convey Open Space to a third party or to the Association.



Section 2.23 Owner. "Owner" shall mean the Record title holder, whether one or more Persons, of fee simple title to a Privately Owned Site, including sellers under executory contracts of sale and excluding buyers thereunder. The Owner of a Privately Owned Site developed as rental apartments and the Owner of a Commercial Site shall be the Owner for purposes of this Declaration, and not the lessees or tenants of the apartments or Commercial Site.

Section 2.24 Person. "Person" shall mean a natural person, a corporation, a partnership, limited liability company, trust or any other legal entity.

Section 2.25 Plat. "Plat" shall mean, collectively: (a) the Aspen Village P.U.D. map, and (b) all of the subdivision plats for any portion or phase of the Project which may be Recorded from time to time, as the same may be amended from time to time.

Section 2.26 Privately Owned Site. "Privately Owned Site " shall mean any Lot or parcel of land within the Project which is shown upon any Recorded Plat, or any other parcel of land which may be sold or conveyed without violation of the provisions of Colorado law pertaining to the subdivision of land. "Privately Owned Site" shall include, without limitation, any parcel identified on the Aspen Village P.U.D. Plat developed for either commercial or residential purposes and shall include Multi-family Sites Each Privately Owned Site constitutes a "unit" for purposes of CCIOA.

Section 2.27 Record or Recorded. "Record" or "Recorded" shall mean the recording of any documents in the real estate records in the office of the Clerk and Recorder of Archuleta County, Colorado.

Section 2.28 Default Assessment. "Default Assessment" shall mean a charge against a particular Owner and such Owner's Privately Owned Site for the purpose of reimbursing the DRC for expenditures and other costs of the DRC in curing any violation of this Declaration or Design Review Criteria by the Owner or a Related User of such Owner. Default Assessments shall also include any fines which the DRC, in its discretion, may impose on a per diem basis pursuant to Section 5.17.

Section 2.29 Related User. "Related User" shall mean any Owner who resides with such Owner on a Residential Site; guests, customers and invitees of an Owner of a Privately Owned Site; employees of an Owner of a Privately Owned Site; and occupants, tenants and contract purchasers of the Privately Owned Site of an Owner who claim by, through, or under an Owner.

Section 2.30 Residential Site. "Residential Site" shall mean any Privately Owned Site within the Project which is designated for residential uses in the Plat and/or this Declaration. The following Lots have been designated Residential Sites: Block 6, Lot 1; Block 2, Lot 1; and Block 1, Lot 1.



Section 2.31 Restrictions. "Restrictions" shall mean covenants, conditions, restrictions, easements, limitations, reservations, exceptions and equitable servitudes affecting real property.

Section 2.32 Right of Way. "Right of Way" shall mean that strip of real property which is improved with trees and other landscaping which is located between the Privately Owned Sites and the curbing located adjacent to public streets within the Project as more particularly depicted on the Plat.

Section 2.33 Sub-Association. "Sub Association" means a property owners association that may be formed by Declarant or an Owner for the purpose of creating a multi-family community or commercial condominiums within the Project. All Sub-Associations must be approved by the Declarant and shall be subject to this Master Declaration and any assessments due hereunder.

Section 2.34 Supplemental Declaration. "Supplemental Declaration" means an instrument which amends this Declaration.

ARTICLE 3 DECLARANT'S RIGHTS AND RESERVATIONS

Section 3.1 Period of Declarant's Rights and Reservations. Declarant shall have retained and reserved certain rights as hereinafter set forth until the expiration of the Declarant Approval Period. Notwithstanding any other provisions of this Declaration, the rights and reservations hereinafter set forth in this Article 3 and in Sections 4.12, 4.19, 4.22, 5.4, 6.2, 11.1, 11.2, 11.5 and 11.12 (collectively, the "Special Declarant Rights"): (a) shall be deemed excepted and reserved in each conveyance of property within the Project, whether or not specifically stated therein, and in each deed or other instrument by which any property within the Project is so conveyed; (b) shall be prior and superior to any other provisions of this Declaration, and in the event of any inconsistency between the provisions of this Declaration pertaining to the Special Declarant Rights and any other provisions of this Declaration, the provisions pertaining to the Special Declarant Rights shall control; and (c) may not, without Declarant's prior written consent, be modified, amended, rescinded, or affected by any amendment of this Declaration during the Declarant Approval Period. Declarant's consent to any one such amendment shall not be construed as a consent to any other amendment.

Section 3.2 Declarant's Rights to Complete Development of Project. No provision of this Declaration shall be construed to prevent or limit Declarant's rights, and Declarant expressly reserves the right to complete the development of property within the boundaries of the Project; to construct or alter Improvements on any lots owned by Declarant within the Project; to maintain model homes, offices for construction, sales or leasing purposes or similar facilities on any property owned by Declarant; and to post signs incidental to development, construction, promotion, marketing, sales or leasing of Lots within the



boundaries of the Project. Declarant may maintain, or permit other Persons to maintain, management offices, signs, model homes, construction offices, trailers and sales offices, in such numbers, of such sizes and at such locations, as Declarant may determine in its reasonable discretion from time to time. Nothing contained in this Declaration shall limit the right of Declarant or require Declarant to obtain approvals to excavate, cut, fill or grade any property owned by Declarant or to construct, alter, demolish or replace any Improvements on any property owned by Declarant, or to use any structure on any Lot owned by Declarant as a construction, model home or real estate sales or leasing office in connection with the sale of any Lot within the boundaries of the Project, nor shall anything herein be deemed to require Declarant to seek or obtain the approval of the DRC for any such activity or Improvement to Lot (as defined in Section 5.3) by Declarant on any Lot owned by Declarant.

Section 3.3 Other Special Declarant Rights. In addition to the foregoing development rights, Declarant reserves the right for itself and any Successor Declarant at any time and from time to time to:

(a) Construct underground utility lines, pipes, wires, ducts, conduits and other facilities across any portion of the Project for the purpose of furnishing utility and other services to buildings and Improvements to be constructed on the Property.

(b) Withdraw and grant easements and licenses to public utility companies and to convey Improvements within those easements anywhere in the Property not occupied by buildings, for the purposes mentioned above.

(c) Create Lots and Common Elements; subdivide, reconfigure, and/or consolidate Lots; convert Lots to General Common Elements; and withdraw property from the Project.

(d) Create cross parking and shared-access easements where necessary, in order to provide suitable access among two or more Commercial Sites located within Block 8, Lots 1, 2, 3, and 4.

(e) Approve and subject condominium or other multi-family development and ownership to the Project and ensure that condominium and multi-family owners sub-associations are subject to the Declarations.

(f) Create and/or relocate or vacate access easements within the Project at such locations and configuration as determined by the Declarant.

(g) Subject additional phases of the Expansion Property to the provisions of this Declaration by recordation of a Supplemental Declaration.

(h) Develop the Property in any order of development or phasing, which Declarant, in its sole discretion, determines appropriate.

(i) Subject the Project to governance by a master association.



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(j) Create trail and conservation easements across Open Space A and Open Space B and convey Open Space A and Open Space B to either the Master Association, an Owner or a governmental entity.

(k) Change the designation of a Residential Site to a Commercial Site and vice versa.

No assurances are made by Declarant as to whether Declarant will exercise the above-described Declarant Rights or the order in which such Declarant Rights will be exercised. The exercise of Declarant Rights as to some portions of the Property will not obligate Declarant to exercise them as to other portions.

Section 3.4. Termination of Rights Reserved. Except as otherwise expressly reserved in this Declaration, all rights reserved by and to the Declarant terminate 7 years after the date upon which this Declaration is recorded or, the date upon which the last Privately Owned Site within the Project has been sold and conveyed to any Owner other than Declarant or an Affiliate of Declarant, whichever shall first occur; provided, however, such reserved rights may be: (i) reinstated or extended by mutual agreement of the Association and Declarant, subject to whatever terms are agreed upon by the parties or (ii) terminated in whole or in part, at the discretion of the Declarant, by a written instrument executed by the Declarant and delivered to the Association.

ARTICLE 4 GENERAL RESTRICTIONS APPLICABLE TO PROPERTY

Section 4.1 Limitations and Restrictions. All of the Project shall be held, used and enjoyed subject to the following limitations and restrictions, and subject to the exemptions for Declarant set forth in this Declaration. The strict application of the following limitations and restrictions in any specific case may be modified or waived in whole or in part by the Association or DRC (whichever is applicable) if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing or be contained in written guidelines or rules promulgated by the DRC and/or Association. It is intended that the DRC have governing authority over all design and construction related aspects of the Project and that the Master Association govern the maintenance and upkeep of Common Elements and the imposition of assessments in connection therewith.

Section 4.2 Construction of Improvements.

(a) All work performed in the construction, maintenance, repair, replacement, alteration or expansion of any Improvement to Project shall be effected as expeditiously as possible and in such a manner as not to unreasonably interfere, obstruct or delay access to or from the Project, or any part thereof, to or from any public right-of-way. Staging for the construction, replacement, alteration or expansion of any Improvement



located in a Privately Owned Lot including, without limitation, the location of any temporary buildings or construction sheds, the storage of building materials, and the parking of construction vehicles and equipment shall be limited to that portion of the Privately Owned Lot approved in advance in writing by the DRC. Unless otherwise specifically stated herein, the Person contracting for the performance of such work ("Contracting Party") shall, at its sole cost and expense, promptly repair and restore or cause to be promptly repaired and restored to its prior condition all buildings, signs and Improvements damaged or destroyed in the performance of such work.

(b) The Contracting Party shall not permit any mechanics', material men's or other professional services liens (as contrasted against consensual monetary liens such construction and/or permanent financing) to stand against any Privately Owned Site for any work done or materials furnished in connection with the performance of the work described in subparagraph (a) above; provided, however, that the Contracting Party may contest the validity of any such lien, but upon a final determination of the validity thereof, the Contracting Party shall cause the lien to be satisfied and released of record. The Contracting Party shall, within thirty (30) days after receipt of written notice from the Owner or Related User of any Privately Owned Site encumbered by any such lien or claim of lien, (i) cause any such outstanding lien or claim of lien to be released of record or transferred to bond in accordance with applicable law, or (ii) give such assurance as would enable a title insurance company to insure over such lien or claim of lien, failing which the Owner or Related User of the Privately Owned Site shall have the right, at the Contracting Party's expense, to transfer said lien to bond. The Contracting Party shall indemnify, defend and hold harmless the Owners and Related Users of Privately Owned Sites, from and against any and all liability, claims, damages, expenses (including reasonable attorneys' fees and costs and reasonable attorneys' fees and costs on any appeal), liens, claims of lien, judgments, proceedings and causes of action, arising out of or in any way connected with the performance of such work.

(c) Staging for any construction, maintenance, repair, replacement, alteration or expansion performed on any Privately Owned Site, including the location of any temporary buildings or construction sheds, the storage of building materials and the parking of construction vehicles and equipment, shall be limited to that Privately Owned Site unless the Owner of such Privately Owned Site requests and obtains the consent of the DRC and the Owner on whose Privately Owned Site the staging will occur. Such staging and storage areas shall also be fenced off at the request of DRC or Declarant.

Section 4.3 Maintenance of Property. No property within the Project shall be permitted to fall into disrepair, and all property within the Project, including any Improvements and landscaping thereon, shall be kept and maintained in a clean, safe, attractive and sightly condition and in good repair. Maintenance, repair and upkeep of each Privately Owned Site shall be the responsibility of the Owner of the Site and shall include, without limitation, maintenance, repair and replacement of all buildings and other structures located thereon; maintenance, repair and replacement of shrubs, trees, vegetation, irrigation systems and other landscaping on such Privately Owned Site, including, but not limited to, removal of snow, ice, dirt, mud and debris from any walkways, driveways and parking areas on such



Owner's site and any public sidewalks adjacent to such sites. Violation of this provision by an Owner shall permit the Association, after Notice and Hearing, to enter on the Privately Owned Site to cure the violation or cause compliance with this provision and to levy and collect a Default Assessment for the costs and expenses of the Association in so doing; provided, however, that there shall be no entry into the interior of an Improvement intended for human occupancy without the consent of the Owner thereof unless an Emergency Situation exists.

Section 4.4 Maintenance of Right of Way. The maintenance, repair and upkeep of the trees and landscaping located on the Right of Way shall be the responsibility of the Association and shall include, without limitation, maintenance, repair and replacement of sprinkler systems, trees, vegetation, and other landscaping on such portion of the Right of Way located adjacent to such Privately Owned Lot, including, but not limited to, fertilizing and trimming of trees, vegetation and other landscaping located on such portion of the Right of Way. Notwithstanding the foregoing, Owners shall be responsible for picking up trash and keeping the Right of Way in a neat and clean condition and free of debris. Owners shall be liable for all damages (for example, costs of repair and replacement of landscaping) arising out of the acts or omissions of an Owner in connection with the Right of Way. Failure by an Owner to reimburse the Association for the costs of repair and/or replacement of the Right of Way shall be deemed a violation of this provision. Violation of this provision by an Owner shall permit the Association after Notice and Hearing, to cure the violation or cause compliance with this provision and to levy and collect a Default Assessment for the costs and expenses of the Association in so doing. In addition, except in the case of negligence by Declarant and/or the Association, an Owner shall indemnify, defend and hold harmless the Declarant and the Association, from and against any and all liability, claims, damages, expenses (including reasonable attorneys' fees and costs and reasonable attorneys' fees and costs on any appeal), and causes of action, arising out of or in any way connected with the Right of Way.

Section 4.5 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any property within the Project, nor shall anything be done or placed thereon which is or may become a nuisance or which is or may cause an unreasonable embarrassment, disturbance or annoyance to others.

Section 4.6 No Annoying Light, Sounds or Odors. No light shall be emitted from any Privately Owned Site or Improvement thereon which is unreasonably bright or causes unreasonable glare, and no sound or odor shall be emitted from any property within the Project which would reasonably be found by others to be noxious or offensive. Without limiting the generality of the foregoing, no exterior spotlights, searchlights, speakers, horns, whistles, bells or other light or sound devices, other than security devices used exclusively for security purposes, shall be located or used on any property except with the prior written approval of the DRC and review and approval from The Town of Pagosa Springs.

Section 4.7 No Hazardous Activities. No activity shall be conducted on and no Improvement shall be constructed on any property within the Project which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the



foregoing, no firearms shall be discharged upon any property and no open fires shall be lighted or permitted on any property except in a contained barbecue unit while attended and in use for cooking purposes or within an interior or exterior fireplace designed to prevent the dispersal of burning embers.

Section 4.8 No Unsightliness. All unsightly conditions, structures, facilities, equipment, objects and conditions shall be enclosed within a structure, including snow removal equipment and garden or maintenance equipment, except when actually in use.

Section 4.9 Restrictions on Garbage and Trash. No refuse, garbage, trash, lumber, grass, shrub or tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse or debris of any kind shall be kept, stored or allowed to accumulate on any part of the Project, except within an enclosed structure or when appropriately screened from view.

Section 4.10 No Temporary Structures. No tent, shack, temporary structure or temporary building shall be placed upon any property within the Project, except with the prior written consent of the DRC and following review and approval from The Town of Pagosa Springs. Notwithstanding the foregoing, the DRC may permit the use of temporary structures during construction upon a Lot in accordance with the rules and regulations of the Design Review Criteria.

Section 4.11 Restriction on Antennae, Pipes and Utility Lines. Pipes for water, gas, sewer, drainage or other purposes, and wires, fiber optic and other cables, poles, antennae and other facilities for the transmission or reception of audio, visual or other electromagnetic signals or electricity, and utility meters or other utility facilities shall be kept and maintained underground or within an enclosed structure. No exterior radio antenna, television antenna, or other antenna of any type (including satellite dishes) shall be erected or maintained in the Project except that: (a) on Commercial Sites an Owner may erect an antenna if: (i) such antenna is necessary to carry on the business conducted by the Owner on the Site; (ii) the DRC gives its consent to the erection of such an antenna in accordance with the provisions of Article 5 hereof; and (iii) if the erection of such antenna is in compliance with all applicable statutes, ordinances and regulations; and (b) the requirements of this Section shall not apply to those "antenna" (including certain satellite dishes) which are specifically covered by the Telecommunications Act of 1996, as amended from time to time. As to "antenna" which is specifically covered by the Telecommunications Act of 1996, the DRC shall be empowered to adopt rules and regulations governing the types of "antenna" that are permissible hereunder and, to the extent permitted by the Telecommunications Act of 1996, as amended, establishing reasonable, non-discriminatory restrictions relating to appearance, safety, location and maintenance of such "antennae." Any project shall also comply with the District Zoning Ordinances (D4 Regulations) of The Town of Pagosa Springs.

Section 4.12 Restrictions on Signs and Advertising Devices. No sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere within the Project so as to be evident to public view, except such signs as may be approved in writing by the DRC and thereafter approved by the Town of Pagosa Springs and except



such signs as Declarant, or other Persons authorized by Declarant, shall be entitled to post or erect pursuant to Section 3.2. A sign advertising a Privately Owned Site for sale or for lease may be placed on such Privately Owned Site; provided, however, that standards relating to dimensions, color, style and location of such a sign shall be determined from time to time by the DRC and shall comply with the sign provisions of The Town of Pagosa Springs and with all other applicable statutes, ordinances and regulations.

Section 4.13 Restrictions on Mining or Drilling. No Owner of any Lot within the Project shall engage in mining, quarrying, drilling, boring or exploring for or removing oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth, except drilling, exploring for or removing underground water by Declarant or any Person designated by Declarant for the purpose of providing water service to property within the boundaries of the Project, which drilling, exploring or removing underground water shall not disturb or subside the surface of the ground in any portion of the Project (other than any property within the Project which is owned by Declarant or by such Person so designated by Declarant).

Section 4.14 Maintenance of Drainage. There shall be no interference with or modification to the established drainage pattern over any property within the Project, except as approved in writing by the DRC, The Town of Pagosa Springs and in accordance with any master drainage study for the Project. Such approval shall not be granted unless provision is made for adequate alternate drainage in accordance with the recommendations, satisfactory to the DRC, of a Colorado Registered Professional engineer set forth in an engineer's report obtained by the Person desiring to interfere with or modify such established drainage pattern, at such Person's expense, and submitted by such Person to the DRC with the request by such Person for such approval. The "established drainage pattern" shall mean the drainage pattern which exists at the time the overall grading of any property has commenced by the homebuilder or other party performing such overall grading, and shall include any established drainage pattern shown on plans, if any, approved by the DRC.

Section 4.15 Compliance with Laws. Nothing shall be done or kept on any property within the Project in violation of any law, ordinance, rule or regulation of any governmental authority having jurisdiction.

Section 4.16 Restoration in the Event of Damage or Destruction. In the event of damage to or destruction of any Improvement on any Privately Owned Site, the Owner thereof shall, subject to the approval of the DRC, either: (i) cause the damaged or destroyed Improvement to be restored or replaced to its original condition or such other condition as may be approved in writing by the DRC; or (ii) the Owner shall cause the damaged or destroyed Improvement to be demolished and the Privately Owned Site to be suitably landscaped, so as to present a pleasing and attractive appearance.

Section 4.17 Vehicular Parking, Storage and Repairs.



(a) No house trailer, camping trailer, boat trailer, **hauling trailer**, boat or boat accessories, truck larger than three-quarter (3/4) ton, recreational vehicle or equipment, or commercial vehicle may be parked or stored anywhere in the Project or in the adjacent public street rights-of-way, except in garages, designated parking or storage areas, or except in emergencies or as a temporary expedience. No emergency or temporary parking or storage shall continue for more than twenty-four (24) hours.

(b) No abandoned or inoperable vehicles of any kind shall be stored or parked within the Project or in the adjacent public street rights-of-way, except in garages, designated parking or storage areas or except in emergencies. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, van, trailer, house trailer, camper, recreational vehicle or other device for carrying passengers, goods or equipment which has not been driven under its own propulsion for a period of two weeks or longer, or which does not have installed within it an operable propulsion system; provided, however, that any vehicle belonging to an Owner which is otherwise permitted will not be deemed to be abandoned while the Owner is ill or out of town. If the Association determines that a vehicle is abandoned or inoperable, a written notice describing the vehicle and calling for its removal shall be delivered to the owner of the vehicle if ownership can be reasonably be ascertained, or shall be placed in a conspicuous place on the vehicle if ownership is unknown. If any such inoperable vehicle is not removed within seventy-two hours after such notice is delivered or posted, the Association shall have the right to remove and store the vehicle at the sole expense of its owner, and any Owner determined after Notice and Hearing to be responsible for the vehicle shall be subject to a Default Assessment for the cost of such removal and storage.

(c) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, painting or servicing any kind of vehicle shall take place within the Project, except within completely enclosed structures which prevent such activities from being seen or heard from the street and from adjoining property. This restriction shall not be deemed to prohibit washing and polishing of vehicles.

(d) No vehicle shall be parked on any street or roadway shown on any map of dedication, subdivision plat or similar Recorded instrument unless otherwise expressly provided for in or on such Recorded map of dedication, subdivision plat or similar instrument showing the street or roadway or in a separate Recorded instrument executed by the DRC. No Person may make use of a parking space which use in any way obstructs, interferes with or results in a safety hazard with respect to the streets and/or roadways within the Project or any other Person's parking rights. Without limiting the generality of the foregoing provisions, if the Association determines that a vehicle is parked on a street or roadway where parking is not permitted, the Association may have such vehicle immediately removed and stored at the expense of the Owner who owns, or whose Related User owns, the vehicle in question. Such Owner shall be subject to a Default Assessment for such removal and storage to be determined pursuant to Notice and Hearing.



Section 4.18 Household Pets. No animals, livestock, birds, poultry or insects, of any kind, shall be raised, bred, kept or boarded in or on any Residential Site; provided, however, that Owners of Residential Sites may keep a reasonable number of dogs, cats, or other domestic animals which are bona fide household pets, provided that (a) such pets are not kept for any commercial purpose and (b) are not kept in such number or in such manner as to violate any zoning ordinance or other governmental requirements or to create a nuisance. The DRC shall have, and is hereby given, the right and authority to determine in its sole discretion that dogs, cats or other household pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance, or that an Owner is otherwise in violation of the provisions of this Section, and to take such action or actions as it deems reasonably necessary to correct the violation. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets, and any such costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement of Assessments as provided in Article 10 hereof.

Section 4.19 Restrictions on Further Subdivision, Property Restrictions and Rezoning. No part of the Project shall be further divided or subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Declarant during the Declarant Approval Period, thereafter without the prior written approval of the DRC and in either case, subject to review and approval by The Town of Pagosa Springs . Nothing herein shall be deemed to require the approval of the Declarant or the DRC for the transfer or sale of any Site or other parcel of land, including Improvements thereon, to more than one person to be held by them as tenants in common or joint tenants, or for the granting of any Mortgage. No application for approval of a final P.D. site plan, zoning amendment, subdivision plat, variance or use permit (or for modification to any of the same) pertaining to any portion of the Project shall be submitted to The Town of Pagosa Springs, Colorado until first approved in writing by the Declarant during the Declarant Approval Period and thereafter by the DRC. Notwithstanding the foregoing, the restrictions contained in this Section shall not apply to portions of the Project owned by Declarant during the Declarant Approval Period.

Section 4.20 Leases. The term "Lease," as used herein, shall include any agreement for the leasing or rental of a Privately Owned Site, or any portion thereof, and shall specifically include, without limitation, month-to-month rentals and subleases, whether or not the parties thereto comply with the terms of this Section. A Privately Owned Site, or any portion thereof, may be leased by its Owner only if the Lease shall provide that the terms of the Lease and the lessee's occupancy of the leased premises shall be subject in all respects to the provisions of this Declaration and that any failure by the lessee to comply with any of the provisions of this Declaration shall be a default under the Lease.

Section 4.21 Open Space. Open Space A and Open Space B shall be restricted to recreational uses only. No Dwelling Units or commercial buildings shall be located within Open Space A and Open Space B. Structures such as fencing, gazebos, park benches,



picnic tables, playground equipment and other recreational facilities may be located within the Open Space only with the prior approval of the Declarant or DRC, as the case may be.

Section 4.22 Commercial Uses. In order to promote a diverse and successful business community, any change in the use or business conducted on a Commercial Site must have the prior approval of the Declarant during the Declarant Approval Period. Heavy industrial and manufacturing shall only be permitted with the approval of the Declarant subject to any applicable zoning regulations of the Town of Pagosa. Notwithstanding anything to the contrary herein, no adult bookstores or medical facilities in the business of performing abortions shall be permitted on the Property. Nor shall liquor retail stores (excluding supermarkets, restaurants, performing arts, theaters or other commercial enterprises in which alcohol is not the predominant business purpose) shall be permitted on the Property.

Section 4.23 Restricted Sales. No sales of printed or visual materials containing "X-rated" content shall be permitted on the Property.

Section 4.24 Landscaping. An Owner shall cause its Privately Owned Site to be landscaped within 24 months of the date of purchase of the Lot. Landscaping shall be done in accordance with a landscape plan which has been approved by the DRC and which shall include trees, shrubs, native grasses and berms. In the event an Owner has not submitted a landscaping plan within a period of 18 months from the date the Lot was purchased from the Declarant, the DRC shall prepare and provide Owner with a DRC approved landscape plan. The DRC shall implement the DRC landscape plan and shall landscape Owner's Lot in accordance therewith, at the expense of the Owner. All costs of landscaping the Lot shall be subject to the DRC's rights of collection and imposition of a Default Assessment as provided in Section 10 hereof.

ARTICLE 5 DESIGN APPROVAL

Section 5.1 Membership of Design Review Committee. The DRC shall initially consist of five (5) members, all of whom shall be appointed by Declarant. Declarant shall have the continuing right to appoint the members of the DRC until the expiration of the Declarant Approval Period. Thereafter, the Owners shall have the right to appoint the members of the DRC as set forth in Section 5.27. Members of the DRC may, but shall not necessarily, be Owners or architects, engineers or other design professionals. Members of the DRC appointed by Declarant may be removed at any time by Declarant and shall serve until resignation or removal by Declarant. Members of the DRC appointed by the Owners may be removed at any time by the Owners as set forth in Section 5.27, and shall serve for such term as may be designated by the Owners or until resignation or removal by the Owners. Unless otherwise specified in this Declaration, the vote or written consent of a majority of the members of the DRC shall constitute the act of the DRC. During the period while Declarant has rights to appoint members of the DRC, Declarant shall give written notice to the Owners of the appointment or removal of any member of the DRC. After the



Declarant Approval Period, the Owners may at any time, and from time to time, change the authorized number of members of the DRC, but the number of members shall always be an odd number and shall not be less than three (3). Declarant may relinquish all or any part of the foregoing rights of Declarant to appoint the DRC by written notice given by Declarant to the Owners.

Section 5.2 Address of Committee. The address of the DRC shall be that of the principal office of the Declarant or to such other person or such other address designated by notice sent to the Owners.

Section 5.3 "Improvement to a Lot" Defined. "Improvement to a Lot," requiring approval of the DRC, shall mean and include, without limitation: (a) the construction, installation, erection or expansion of any building, structure or other Improvements, including, without limitation, Dwelling Units, utility facilities and signs; (b) the demolition or destruction, by voluntary action, of any building, structure or other Improvements; (c) the grading, excavation, filling or similar disturbance to the surface of the land including, without limitation, change of grade, change of ground level, change of drainage pattern or change of stream bed; (d) landscaping, planting, clearing or removing of trees, shrubs, grass or perennial plants; (e) the construction, installation, erection, placement or expansion of any temporary or other nonpermanent structure, improvement or facility such as, without limitation, any tent, shed, trailer or outdoor storage area or facility; and (f) any change or alteration to the exterior of any previously approved Improvement to a Lot, including any change of exterior appearance, finish material, color or texture.

Section 5.4 Approval of Improvements Required. The approval of the DRC shall be required prior to the construction, installation or alteration of any "Improvement to a Lot", as hereinafter defined, for any Improvement to a Lot on any Commercial Site or Residential Site, except for any Improvement to a Lot made by Declarant, and except as prior approval may be waived or certain Improvements to a Lot may be exempted in writing or under written guidelines or rules promulgated by the DRC, and except and to the extent that the requirement for such approval may otherwise specifically be prohibited pursuant to the provisions of applicable federal, state or local laws, statutes, ordinances, rules or regulations.

Section 5.5 Design Review Criteria. The DRC has issued the Design Review Criteria, and may issue additional guidelines or rules, relating to the procedures, materials to be submitted, design requirements or standards and additional factors which will be taken into consideration in connection with the approval of any proposed Improvement to a Lot. Such guidelines or rules may specify circumstances under which the strict application of limitations or restrictions under this Declaration will be waived or deemed waived in whole or in part. Such guidelines or rules may waive the requirement for approval of certain Improvements to a Lot or exempt certain Improvements to a Lot from the requirement for approval, if such approval is not reasonably required to carry out the purposes of this Declaration.



Section 5.6 Submission of Plans. **Plans to accomplish any Improvement to a Lot must be submitted to the DRC within 18 months from the date of purchase of the Lot.** Prior to commencement of work to accomplish any proposed Improvement to a Lot, the Person proposing to make such Improvement to a Lot ("Applicant") shall submit to the DRC at its offices such descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans, specifications and samples of materials and colors as the DRC shall reasonably request, showing the nature, kind, shape, height, width, color, materials, and location of the proposed Improvement to a Lot. The Applicant shall be entitled to receive a receipt for the same from the DRC or its authorized agent. The DRC may require submission of additional plans, specifications or other information prior to approving or disapproving the proposed Improvement to a Lot. Until receipt by the DRC of all required materials in connection with the proposed Improvement to a Lot, the DRC may postpone review of any materials submitted for approval by a particular Applicant. Additionally, all obligations of the DRC hereunder to review and approve all such plans, specifications and other materials with respect to a proposed Improvement to a Lot (but not the Applicant's obligation to obtain the DRC's approval thereof) shall be suspended during the period of time in which the Applicant shall be in default under the provisions of Articles 4 or 5 of this Declaration, and such default shall remain uncured by the Applicant, with respect to such Privately Owned Site. In the event an Applicant fails to submit plans within 18 months from the date of purchase of the Lot, the DRC shall require landscaping of the Lot pursuant to Section 4.24.

Section 5.7 Criteria for Approval. The DRC shall approve any proposed Improvement to a Lot only if it deems in its reasonable discretion that the Improvement to a Lot in the location indicated will not be detrimental to the appearance of the surrounding areas of the Project as a whole; that the appearance of the proposed Improvement to a Lot will be in harmony with the surrounding areas of the Project; that the Improvement to a Lot will not detract from the beauty, wholesomeness and attractiveness of the Project or the enjoyment thereof by Owners; and that the Improvements to a Lot are in conformity with the Design Review Criteria. The DRC may condition its approval of any proposed Improvement to Property upon the making of such changes therein as the DRC may deem appropriate.

Section 5.8 Design Review Fee. The DRC may, in its guidelines or rules, provide for the payment of a fee to accompany each request for approval of any proposed Improvement to a Lot. The DRC may provide that the amount of such fee shall be uniform for similar types of any proposed Improvement to a Lot or that the fee shall be determined in any other reasonable manner, such as based on the estimated cost of the proposed Improvement to a Lot.

Section 5.9 Decision of Committee. The decision of the DRC shall be made within thirty (30) days after the date the DRC receives all materials required by the DRC, unless such time period is extended by mutual agreement. The decision shall be in writing and, if the decision is to disapprove a proposed Improvement to Property, the reasons therefore shall be stated. The decision of the DRC shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the DRC.



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Section 5.10 Failure of Committee to Act on Plans. Any request for approval of a proposed Improvement to Property shall be deemed approved unless notice of approval or conditional approval or a request for additional information or materials is transmitted to the Applicant by the DRC within thirty (30) days after the date the DRC receives all required materials.

Section 5.11 Obtaining Governmental Approvals. Applicant shall obtain, prior to commencement of construction of any Improvements to a Lot, all permits, licenses, certificates, consents and any other approvals necessary or required pursuant to any law, ordinance, resolution, order, rule or regulation of any governmental authority having jurisdiction ("Governmental Approvals") in order for Applicant to construct, operate and maintain the Improvements to a Lot. The Governmental Approvals shall be deemed to include, but not be limited to, (i) issuance of a special use permit by The Town of Pagosa Springs along with an excavation and/or building permit issued by the Building Department for The Town of Pagosa Springs, (ii) approval of Improvement plans by The Town of Pagosa Springs's Department of Planning and Community Development, or (iii) a site specific development plan approved by The Town of Pagosa Springs planning commission along with an excavation and/or building permit issued by the Building Department for The Town of Pagosa Springs.

Section 5.12 Prosecution of Work After Approval. After approval of any proposed Improvement to a Lot, the proposed Improvement to a Lot shall be accomplished as promptly and diligently as possible and in complete conformity with the description of the proposed Improvement to a Lot, any materials submitted to the DRC in connection with the proposed Improvement to a Lot, any conditions imposed by the DRC and in compliance with the Restrictions contained in this Declaration. **Failure to complete any proposed Improvement to a Lot within one (1) year after the date work is commenced or to complete the Improvement to a Lot in accordance with the description and materials furnished to, and the conditions imposed by, the DRC, shall constitute a violation of this Article 5.**

Section 5.13 Notice of Completion. Upon completion of the Improvement to a Lot, the Applicant shall give written Notice of Completion to the DRC. Until the date of receipt of a Notice of Completion, the DRC shall not be deemed to have notice of completion of any Improvement to a Lot.

Section 5.14 Inspection of Work. The DRC or its duly authorized representative shall have the right to inspect any Improvement to a Lot prior to or after completion; provided that the right of inspection shall terminate one hundred and twenty (120) days after the DRC receives a Notice of Completion from the Applicant.

Section 5.15 Notice of Noncompliance. If, as a result of inspections or otherwise, the DRC finds that any Improvement to a Lot has been done without obtaining the approval of the DRC, or was not done in substantial compliance with the description and materials



furnished to, and any conditions imposed by, the DRC, or was not completed within one (1) year after the date of commencement of work, the DRC shall notify the Applicant in writing of the noncompliance; which notice shall be given, in any event, within one hundred and twenty (120) days after the DRC receives any Notice of Completion from the Applicant ("Notice of Noncompliance"). The notice shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance. In addition, the DRC shall send a copy of such notice to any "Interim Lender," as hereinafter defined, for the Privately Owned Site upon which the Improvement to a Lot is being constructed, who shall have previously requested in writing to the DRC that the DRC send to it a copy of any such notice of noncompliance. "Interim Lender" shall mean any Mortgagee providing the Owner with funds for the construction of an Improvement to a Lot.

Section 5.16 Failure of Committee to Act After Completion. If, for any reason other than the Applicant's act or neglect, the DRC fails to notify the Applicant of any noncompliance within one hundred and twenty (120) days after receipt by the DRC of written Notice of Completion from the Applicant, the Improvement to a Lot shall be deemed to be in compliance if the Improvement to a Lot was, in fact, completed as of the date of Notice of Completion.

Section 5.17 Fines or Remedies in Event of Noncompliance. If the DRC determines that a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date the DRC gives its notice. If the Applicant does not comply with the DRC notice within such 45 day period, the DRC may, at its option, do the following:

- (i) impose a fine of \$50.00 per day (or such other amount as implemented by the DRC after the Declarant Approval Period) against any Owner and such Owner's Privately Owned Site for each day the Owner fails to comply with the requirements of this Declaration or Design Review Criteria;
- (ii) enter upon the property and remove or cure the noncompliant Improvement to Property at the Owner's sole cost and expense; or
- (iii) otherwise remedy the noncompliance by taking such actions as the DRC determines are necessary or desirable, including a suit to enjoin such action and the Applicant shall reimburse the DRC, upon demand, for all expenses, including legal expenses, incurred in connection therewith.

If such fines or expenses are not promptly repaid by the Applicant or Owner to the DRC, the DRC may levy a Default Assessment against the Owner of the Site for reimbursement of such costs and expenses. The right of the DRC to impose a fine, or remedy or remove any noncompliance shall be in addition to all other rights and remedies which the DRC may have at law, in equity, or under this Declaration, including an award for damages or injunctive relief.

Section 5.18 Correction of Noncompliance by Interim Lender. If, within a period of not more than thirty (30) days after the date of receipt by the Interim Lender of the copy of



the Notice of Noncompliance as provided in Section 5.17, the Interim Lender notifies the DRC that it has begun, and will continue to diligently pursue, proceedings to obtain title to the Privately Owned Site upon which is being constructed the Improvement to a Lot pursuant to the remedies provided in the Mortgage held by such Interim Lender or pursuant to any foreclosure, or deed or assignment in lieu of foreclosure, of such Mortgage, then the DRC, at its option, may extend the period for remedy or removal of the noncompliance for a period expiring forty-five (45) days after the date the Interim Lender obtains title to the Privately Owned Site. If the Interim Lender does not comply with the DRC ruling within such extended period, or if at any time during such extended period the Interim Lender shall fail to diligently pursue proceedings to obtain title to the Privately Owned Site as aforesaid, the DRC may, at its option, exercise all of its rights and remedies provided in Section 5.17 hereof.

Section 5.19 No Implied Waiver or Estoppel. No action or failure to act by the DRC shall constitute a waiver or estoppel with respect to future action by the DRC with respect to any Improvement to a Lot. Specifically, the approval by the DRC of any Improvement to a Lot shall not be deemed a waiver of any right or an estoppel to withheld approval or consent for any similar Improvement to a Lot or any similar proposals, plans, specifications or other materials submitted with respect to any other Improvement to a Lot.

Section 5.20 Committee Power to Grant Variances. The DRC may authorize variances from compliance with any of the provisions of this Declaration, including restrictions upon height, size, floor area or placement of structures or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the DRC or by its authorized representative. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that no variance shall operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provision covered by the variance nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned, including, but not limited to, zoning ordinances and setback lines or other requirements imposed by any governmental authority having jurisdiction.

Section 5.21 Authorized Representative. The powers and duties of the DRC may be delegated to one or more authorized representatives, who shall have the power to review and approve or disapprove proposed Improvements to Property and to grant variances and exemptions. Notwithstanding the foregoing, the authorized representative shall not have the authority to change the policies and guidelines of the DRC. The DRC may, from time to time, by resolution in writing adopted by a majority of the members, designate an authorized representative or representatives (who may, but need not, be members of the DRC). The action of such authorized representative or the written consent or the vote of a majority of the members of the DRC shall constitute the action of the DRC.



Section 5.22 Meetings of Committee. The DRC shall meet from time to time as necessary to perform its duties hereunder.

Section 5.23 Records of Actions. The DRC shall record in writing all final actions of the DRC, and the DRC shall keep a permanent record of such actions.

Section 5.24 Estoppel Certificates. The DRC shall, upon the request of any interested party and after confirming any necessary facts with the DRC, furnish a certificate with respect to the approval or disapproval of any Improvement to a Lot or regarding whether any Improvement to a Lot was made in compliance herewith. Any Person without actual notice to the contrary shall be entitled to rely on said certificate with respect to all matters set forth therein.

Section 5.25 No Liability for Committee Action. There shall be no liability imposed on the DRC, any member of the DRC, any authorized DRC representative or Declarant for any loss, damage or injury arising out of or in any way connected with the performance of the duties of the DRC, if such party acted in good faith and without malice. In reviewing any matter, the DRC shall not be responsible for passing on safety, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations nor shall its approval of an Improvement to Property be deemed approval of such matters.

Section 5.26 Construction Period Exception. During the course of actual construction of any permitted structure or Improvement to a Lot, and provided that construction is proceeding with due diligence, the DRC shall temporarily suspend the provisions contained in this Declaration as to the property upon which the construction is taking place to the extent necessary to permit such construction; provided, however, that, during the course of any such construction (including the use of temporary construction trailers), nothing is done which will result in a violation of any of the provisions of this Declaration upon completion of construction, and nothing is done which will constitute a nuisance or unreasonable interference with the use and enjoyment of other property.

Section 5.27 Appointment and Removal of Successor Members of the DRC. Upon the expiration of the Declarant Approval Period, any successor member of the DRC may be appointed, removed or replaced upon the vote of the Owners having a majority of the total acreage of Privately Owned Lots within the Project.

ARTICLE 6 EASEMENTS

Section 6.1 Maintenance Easement. An easement to exercise its respective rights and to perform its respective obligations pursuant to this Declaration is hereby reserved and granted to Declarant and its respective officers, agents, employees and assigns, upon, across, over, in and under the Project, together with the right to make such use of the Project as may be necessary or appropriate in carrying out such rights or obligations;



provided, however, that the foregoing easement shall not apply to any portion of a Privately Owned Site upon which is located any building which has been constructed in a manner consistent with the provisions of this Declaration for such Site.

Section 6.2 Utilities. Declarant hereby creates and reserves to itself until the expiration of the Declarant Approval Period, a blanket non-exclusive easement upon, across, over, in and under the Project for the installation, operation, replacement, repair and maintenance of utilities and facilities therefore and other appurtenances thereto, including, but not limited to, water, sanitary sewer, storm sewer, gas and other energy services, telephone, electricity and cable television, fiber optic and other telecommunication services; provided, however, that the foregoing easement shall not apply to any portion of a Privately Owned Site upon which is located any building which has been constructed in a manner consistent with the provisions of this Declaration. By virtue of this blanket easement, it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances on the Project and to affix, repair, maintain and replace water and sanitary and storm sewer pipes, gas, electric, telephone, fiber optic and television wires, cables, circuits, conduits and meters. If any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over or under any part or all of the Project (other than any portion thereof upon which is located a building as set forth above) without conflicting with the terms hereof; provided, however, that such right and authority shall be transferred and shall devolve upon the Owners upon the expiration of the Declarant Approval Period. The easement provided for in this Section shall in no way affect, avoid, extinguish or modify any other Recorded easement on the Project.

Section 6.3 Conservation Easements. Declarant hereby creates and reserves to itself until the expiration of the Declarant Approval Period, the right to create conservation easements upon the property designated on the Plat as Open Space A and Open Space B. The terms and restrictions of the conservation easements shall be as determined by the Declarant; provided, however, that Open Space A and Open Space B shall not permit Dwelling Units or commercial buildings and shall be restricted to recreational purposes.

Section 6.4 Cross-Parking and Shared Access Easements. Declarant hereby creates and reserves to itself until the expiration of the Declarant Approval Period, the right to dedicate and/or convey on plats or by instrument, certain easements described as "cross-parking easements" and/or shared access easements to promote vehicular ingress and egress to two or more Commercial Lots anywhere within the Project, including but not limited to, Block 8, Lots 1, 2 3, and 4. Such cross-parking easements and shared access easements shall be placed in such locations as the Declarant deems necessary in order to facilitate traffic flows within the Project.

Section 6.5 Infrastructure, Trails. Declarant reserves, as a blanket easement, the right to grant, dedicate reserve and otherwise create from time to time, other easements necessary for infrastructure improvements and hiking trails on, across and under the



Property, in particular, the Open Space, provided that such easements do not unreasonably interfere with an Owner's use of a Privately Owned Site.

Section 6.6 Easements Deemed Created. All conveyances of Privately Owned Sites hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article 6, whether or not specific reference to such easements or to this Article appears is made in the instrument of such conveyance.

ARTICLE 7

Default Assessments

Section 7.1 Default Assessments. The DRC may, subject to the provisions hereof, levy a Default Assessment against any Owner if the willful or negligent failure of the Owner, a Related User of the Owner, or a person claiming through the Owner to comply with this Declaration, or the Design Review Criteria or the actions or failure to act of such Owner or a Related User of such Owner have resulted in the expenditure of funds by the DRC. Such Default Assessment shall be levied only after a Notice and Hearing, the time and place of which shall be determined by the DRC with reasonable notice to the Owner. The amount of the Default Assessment shall be due and payable to the DRC thirty (30) days after the Notice and Hearing and a notice to the Owner of the decision that the Default Assessment is owing.

Section 7.2 Late Charges and Interest. If any Default Assessment or any installment thereof is not paid within thirty (30) days after it is due, the Owner obligated to pay the Default Assessment may be required to pay a reasonable late charge to be determined by the DRC. Any Default Assessment or installment of an Default Assessment which is not paid within thirty (30) days after the date of any Notice of Default is given, shall bear interest from the date such Default Assessment became due and payable at the rate of eighteen percent (18%) per annum simple interest.

Section 7.3 Remedies to Enforce Default Assessments. Each Default Assessment levied hereunder shall be a separate, distinct and personal debt and obligation of the Owner against whom the same is assessed. In the event of a default in payment of any Default Assessment or installment thereof, the DRC may, in addition to any other remedies provided under this Declaration or by law, enforce such obligation by suit or by filing and foreclosure of a lien as hereinafter provided.

Section 7.4 Lawsuit to Enforce Default Assessments. The DRC may bring a suit at law to enforce any Default Assessment obligation. Any judgment rendered in such action shall include any late charge, interest, and other costs of enforcement including reasonable attorneys' fees in the amount as the court may adjudge, against the defaulting Owner.

Section 7.5 Lien to Enforce Default Assessments. The DRC may also elect to file a claim of lien against the lot of the delinquent Owner by recording a notice ("Notice of Lien")



setting forth (a) the amount of the claim of delinquency, (b) the interest and costs of collection which have accrued thereon, (c) the legal description and street address of the lot against which the lien is claimed and (d) the name of the record Owner thereof. Such Notice of Lien shall be duly executed by the DRC or other duly authorized agent of the DRC. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts (including any per diem fines) are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the DRC shall execute and record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the DRC to cover the costs of preparing and recording the release of the lien. Unless paid or otherwise satisfied, the lien may be foreclosed in the manner for foreclosure of liens in the State of Colorado.

Section 7.6 Estoppel Certificates. Upon payment of such reasonable fee as may be determined from time to time by the DRC, and upon the written request of any Owner and any person with, or intending to acquire, any right, title or interest in the lot of an Owner, the DRC shall furnish a written statement setting forth the amount of any Default Assessments or other amounts, if any, due and accrued and then unpaid with respect to a lot and the Owner thereof and setting forth the amount of any Default Assessment levied against such lot which is not yet due and payable. Such statement shall, with respect to the person to whom it is issued, be conclusive against the DRC and all persons for all purposes, that no greater or other amounts were then due or accrued and unpaid and that no other Assessments have been levied under or pursuant to this Declaration.

Section 7.7 No Offsets or Abatements. All Default Assessments shall be payable in the amounts specified in the levy thereof, and no abatements or offsets or reduction thereof shall be permitted for any reasons including, without limitation, any claim that the DRC is not properly exercising its duties and powers under this Declaration, any inconvenience arising from the making or repairs or improvements to the Common Areas, or for any other reason.

ARTICLE 8 ARBITRATION

Section 8.1 Alternative Dispute Resolution. The purpose of the Declaration is to establish a harmonious planned community. Because the prompt, efficient, fair and non-belligerent resolution of any disputes is desirable, any controversy arising out of or relating to this Declaration, or a breach thereof, or any other dispute between (1) the Declarant and (2) the Association, DRC, or any Owner shall be resolved as set forth in this Article.

Section 8.2 Direct Communication. The parties to the disagreement shall set forth their respective positions in the dispute in correspondence. Each party shall respond within seven days after receipt of a letter from the other until agreement is reached.

Section 8.3 Mediation. If the dispute cannot be resolved through direct communication of the parties, either party may request appointment of a neutral and properly



credentialed mediator. Both parties shall participate in the mediation in good faith until the dispute is resolved for a period not to exceed thirty days with the consent of all parties. The cost of the mediation shall be divided equally among the parties.

Section 8.4 Method. If the dispute cannot be resolved through mediation, either party may request appointment of one or more neutral and properly credentialed arbitrators with expert knowledge and experience regarding the subject in dispute. The initiating person shall give written notice of its decision to arbitrate by providing a specific statement setting forth the nature of the dispute, the amount involved and the remedy sought. The initiating person shall be responsible for all filing requirements and the payment of any fees according to the rules of the applicable regional office of the American Arbitration Association. The parties shall have an equal and fair opportunity to present their respective positions to the arbitrators, orally or in writing, as the arbitrators may specify depending on the nature of the dispute. The arbitrators may require such testimony, materials and documentation as they may determine to be appropriate. The arbitrators shall provide a written resolution within thirty days after the conclusion of the presentations of the parties and receipt of requested materials and documents. Any dispute shall be settled by binding arbitration administered by the American Arbitration Association.

(a) Costs. The arbitrator shall award to the prevailing party, if any, as determined by the arbitrator, all of its costs and expenses including any attorney's fees, arbitrator's fees and out-of-pocket expenses of any kind. The term "prevailing party" shall mean the party whose position is most nearly upheld in arbitration. (For example, the prevailing party would be the party who is required to pay \$1,000.00 in the arbitration proceeding where such party had, prior to the commencement of the arbitration, offered \$500.00 by way of settlement and the opposing party, refusing such offer, had claimed entitlement to \$10,000.00.)

(b) Binding Nature; Applicable Law. The consideration of the parties to be bound by arbitration is not only the waiver of access to determination by a court and/or jury, but also the waiver of any rights to appeal the arbitration finding. A judgment upon an award rendered by the arbitrator may be entered in any court having jurisdiction.

(c) Location. The alternative dispute resolution proceeding shall be held within Archuleta County, Colorado unless otherwise mutually agreed by the parties.

(d) Sole Remedy; Waiver of Judicial Rights. The Declarant, the DRC, the Association, and each Owner of a Lot expressly consent to these procedures established in this Article as their sole and exclusive remedy, and expressly waive any right they may have to seek resolution of any dispute contemplated by this Article in any court of law or equity, and any right to trial by judge or jury. If a dispute involves the Declarant or the Association, no person shall file a memorandum of lis pendens or similar instrument that would encumber or create a lien upon the land owned either by the Declarant or the Association.

(e) No Agreement by Association or DRC. Notwithstanding any provision in this Article 8 to the contrary, the DRC and Association shall have the right to enforce all



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covenants set forth herein against Owners, as provided in this Declaration, and the Association and/or DRC does not agree to mediate or arbitrate its claims in such enforcement actions.

ARTICLE 9 OWNER'S ASSOCIATION

Section 9.1 Formation. The Association shall be charged with the duties and invested with the powers prescribed by this Declaration and the Association articles and bylaws. The Association articles and bylaws shall not, for any reason, be amended, otherwise modified, or interpreted so as to be inconsistent with this Declaration.

Section 9.2 Executive Board and Officers. The affairs of the Association shall be conducted by the Executive Board and such officers as the Executive Board may elect or appoint in accordance with its articles and bylaws, as the same may be amended from time to time. The Association, by and through the Executive Board, shall govern and manage the affairs of the Association, property owned by the Association, and the provisions of this Declaration. The Executive Board shall be composed of a minimum of three members. The Executive Board may also appoint various committees. Declarant, during the "Declarant Approval Period", shall have the right to appoint and remove Directors and officers.

Declarant may voluntarily surrender the right to appoint and remove Directors and officers before termination of the Declarant Approval Period. In that event, Declarant may require, for the duration of the Declarant Approval Period, that specified actions of the Executive Board, as described in a recorded instrument executed by the Declarant, must be approved by Declarant before they become effective.

Except as otherwise provided above, upon the termination of the Declarant Control Period, the Owners shall elect an Executive Board of at least three (3) members, at least a majority of whom shall be Owners, and the Executive Board shall elect the officers. The Executive Board and officers shall take office upon election.

Section 9.3 Association Rules. The Association may, by a majority vote of the Executive Board, adopt, amend and repeal Association Rules to be known as the "Association Rules". The purpose of the Association Rules shall be to implement, supplement or otherwise carry out the purposes and intentions of this Declaration; provided such Association Rules must be consistent with this Declaration.

Section 9.4 Liability. In the performance of their duties, the officers and members of the Executive Board are required to exercise the care required of a fiduciary of the Owners. No member of the Executive Board and no officer shall be liable for actions taken or omissions made in performance of such member's duties, except for wanton and willful acts or omissions. Officer or member actions taken upon the advice of legal counsel, certified public accountants, registered or licensed engineers, architects or surveyors shall conclusively be deemed to be in good faith and to have met the care required under the Act.



Section 9.5 Membership. The Association shall be a membership association without certificates or shares of stock. Every Owner shall be a member of the Association, and a person or entity who is not an Owner may not be a member of the Association. Membership in the Association shall automatically terminate when a member ceases to be an Owner. There shall be one class of membership, which is a voting membership by Owners.

Section 9.6 Voting. Each Lot (including Lots owned by the Declarant and including a Multi-family Site or such other Lot governed by a Sub-Association) shall be allocated a vote which shall be equal to the amount of acreage comprising such Lot as shown on the table attached hereto as Exhibit B. Sub-Association board of directors shall be deemed the Owner of, and shall be allocated the vote of Multi-family parcels or Lots which have been further subdivided and which are governed by a Sub-Association. Neither fractional nor cumulative voting shall be allowed. If the Owners of a Lot cannot agree among themselves as to how to cast their vote on a particular matter, they shall lose their right to vote on such matter. If any Owner of a Lot casts the vote for that Lot, it will thereafter be presumed for all purposes that the Owner was acting with the authority and consent of all other Owners of that Lot, unless an Owner of that Lot makes an objection thereto to the person presiding over the meeting when the vote is cast. If more than one vote is cast for any Lot, none of such votes shall be counted and all of such votes shall be deemed null and void. For the election of the Executive Board, those candidates receiving the highest number of votes shall be deemed elected. Notwithstanding anything to the contrary herein, Open Space A and Open Space B shall not have any "voting" rights in the Association.

Section 9.7 Enforcement. The Declarant (its successors and assigns) and the Association shall each have the right and power to bring suit in its name for legal or equitable relief for the failure to comply with any provision of this Declaration, or Association Rules promulgated by the Executive Board. In addition, the Association shall have the right to impose on any Owner monetary fines for any lack of compliance with provisions of this Declaration or Association Rules promulgated by the Executive Board and where such fines are not paid within the time provided, such fines may be collected as an Assessment Lien. The failure of the Declarant and/or the Association to insist upon the strict performance of any such provisions or to exercise any right or option available to it, or to serve any notice or to institute any action, shall not be a waiver or relinquishment for the future of any such provision or the enforcement thereof. Any Owner aggrieved by a lack of compliance by another Owner may also bring suit for legal and equitable remedies. If any court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to reimbursement of its costs and expenses, including reasonable attorney's fees, in connection therewith.

Section 9.8 Power of Association. Each Owner agrees that the Association has all the powers granted to it by this Declaration, the Act, and Colorado Nonprofit Corporation Act and any amendments thereto. Such powers shall include, without limitation, levying Assessments against Owners; imposing a lien on Privately Owned Sites for any unpaid or uncollected Assessments or penalties, and foreclosing any such liens; enforcing these Declarations;



acquiring, holding, owning, leasing, mortgaging and disposing of property; the adoption of Association Rules; the defending, prosecuting or intervention in litigation on behalf of all members; the borrowing of monies for Association purposes; and the right to pledge future income in order to secure such borrowings. The term "pledge future income" shall include the right to impose a special assessment for repayment of such borrowings and to assign such special assessment (and all lien and collection rights appurtenant thereto) to the mortgagee as security for repayment thereof. The Association may exercise any other right, power or privilege given to it by this Declaration, the articles and bylaws of the Association.

Section 9.9 Maintenance of Privately Owned Sites. Each Owner shall, at such Owner's sole cost and expense, maintain such Owner's Privately Owned Site and the Improvements located thereon in good order and repair. If, in the reasonable judgment of the Association, an Owner fails to maintain Owner's Privately Owned Site or the Improvements located thereon, and such failure remains uncured for more than thirty (30) days after the Association's delivery of written notice thereof to such Owner, the Association may enter upon such Privately Owned Site, including its Common Elements, perform such maintenance and repairs the Association deems necessary and appropriate, and charge all costs and expenses incurred by the Association in connection therewith to such Owner as a Default Assessment. The Association may, without notice, make emergency repairs to and maintain any Privately Owned Site or Improvements located thereon, as may, in its judgment, be necessary for the safety of all persons or to prevent damage to any other property. The cost of such emergency repairs shall be charged to the Owner of the Privately Owned Site as a Default Assessment.

Section 9.10 Maintenance by Sub-Associations. Each Sub-Association shall maintain the Common Elements within its Multi-family Site or such other site governed by it. If, in the reasonable judgment of the Association, a Sub-Association fails to maintain its Common Elements in good order and repair, and such failure remains uncured for more than thirty (30) days after the Association's delivery of written notice thereof to such Sub-Association, the Association may enter upon such Multi-family Site, or other site governed by a Sub-Association, including their Common Elements, perform such maintenance and repairs the Association deems necessary and appropriate, and charge all costs and expenses incurred by the Association in connection therewith to such Sub-Association's members, as a Default Assessment.

Section 9.11 Managers. The Association may employ or contract for the services of managers to whom the Executive Board may delegate certain powers, functions or duties of the Association. Managers shall not have the authority to make expenditures except upon prior approval of the Executive Board.

Section 9.12 Special Provisions Regarding Association Property. All Common Elements which may be eventually owned by the Association shall, at all times, be owned, managed, operated, and maintained by the Association consistent with the provisions of this Declaration and in trust for the use, benefit, and enjoyment of the Owners of Privately Owned Sites.



ARTICLE 10
ASSESSMENTS, COMMON EXPENSES, BUDGETS AND LIENS.

Section 10.1 Obligation for Assessments and Other Charges.

(a) Each Owner, by accepting a deed to a Privately Owned Site, shall be deemed to have covenanted and agreed to pay the Association all Assessments and other charges that the Association is required or permitted to levy or impose on such Owner, or such Owner's Privately Owned Site.

(b) Notwithstanding the definition of the term "Owner": (i) a person or entity that acquires a Privately Owned Site in a foreclosure sale shall be personally liable for all Assessments or other charges that the Association may levy, commencing on the date of the foreclosure sale; and (ii) a person or entity that acquires a Privately Owned Site by deed in lieu of foreclosure shall also be personally liable for all such Assessments, commencing on the date the Owner executes the deed in lieu of foreclosure.

(c) No Owner shall be exempt from liability for any Assessment or other charges by waiving the use or enjoyment of any Common Element, or by abandoning any Privately Owned Site against which such Assessments or other charges are made.

(d) Each Owner shall be personally liable for all Assessments and other charges levied on such Owner's Privately Owned Site. If there is more than one Owner, each Owner shall be jointly and severally liable with the other Owners for all Assessments or other charges so levied.

(e) Each Assessment or other charge, together with the interest thereon and all costs and expenses incurred by the Association to collect such Assessment or other charge, including all fees and disbursements to attorneys, accountants, appraisers, receivers, or other professions engaged by the Association in connection therewith, may be recovered by a suit for a money judgment by the Association without foreclosing or waiving any Assessment Lien (as defined by the Act) securing the same.

(f) Notwithstanding anything else to the contrary contained in this Declaration, the Association and its Common Elements (including Open Space A and Open Space B) shall be exempt from all Assessments; and, during the Declarant Approval Period, Assessments shall be made only as to Privately Owned Sites conveyed by the Declarant to any Owner other than the Declarant.

Section 10.2 Budgets.

(a) Prior to the first levy of any Assessments, and, thereafter, on or before



July 1 of each calendar year, the Executive Board shall adopt the proposed annual budget for the Association for the following calendar year that sets forth: (i) the Executive Board's estimates of common expenses for the next calendar year; and (ii) the amount of funds for such common expenses that the Executive Board proposes to raise through all Assessments.

(b) The proposed annual budget shall be sent to all Owners for approval; provided, however, that unless seventy-five (75) percent of all votes within the Association, whether or not a quorum is present, rejects the proposed annual budget, the proposed annual budget shall be deemed ratified. If the Executive Board deems it necessary to amend an annual budget that has been ratified by the Owners, the proposed amendment shall also be sent to all Owners and, unless seventy-five (75) percent of all votes within the Association, whether or not a quorum is present, rejects the proposed amendment, the proposed amendment shall be deemed ratified.

Section 10.3 Annual Assessments. Prior to the first levy of any Assessments, and, thereafter, on or before July 1st of each calendar year, the Executive Board shall levy and collect from each Owner an annual assessment for the common expenses of the Association (to be paid in twelve equal monthly installments).

Section 10.4 Special Assessments. If, at any time, the Executive Board believes that the sum of common expenses for a calendar year will exceed the revenues of the Association for that calendar year, then the Executive Board may cause the Association to levy and collect a special assessment from Owners in an amount equal to the amount of such excess. To the extent that Common Elements are applicable to a Multi-family Site, and/or applicable to a site governed by a Sub-Association, for which the Association has the responsibility for maintenance, the Association may specially assess the Sub-Association or to the extent necessary to maintain such Common Elements.

Section 10.5 Default Assessments. Notwithstanding anything to the contrary contained herein, if any common expense for which the Association has assumed responsibility is caused by (a) the negligence or misconduct of an Owner or such Owner's family or guests and/or (b) a violation of any covenant or condition of this Declaration by an Owner or such Owner's family or guest, the Association may levy an Assessment against such Owner's Privately Owned Site. Any such Assessment levied by the Association, and each fine, penalty, fee or other charge imposed upon an Owner for such violation, shall be referred to as a "Default Assessment". With respect to any Default Assessment, the Association shall provide reasonable notice and reasonable opportunity to the Owner against whom the Association seeks to levy the Default Assessment to review the Default Assessment circumstances with the Executive Board prior to its decision to so levy the Default Assessment.

Section 10.6 Assignment of Assessments. The Association shall have an unrestricted right to assign its right to receive Assessments and other future income, either as security for the obligations of the Association or otherwise.

Section 10.7 Assessment Lien. The Association shall have a lien on each Privately Owned Site for any Assessment levied against such property and any fine, late charges, penalties, interest, attorney's fees, and disbursement of costs of collection imposed against the Owner. The Assessment lien shall secure all of the foregoing obligations of an Owner until such time as the obligations become due. If any Assessment is paid in installments, the Assessment lien secures each installment from the time it becomes due, including any due dates set by the Association for the acceleration of installment obligations. An Assessment lien is prior to all liens and encumbrances on a Privately Owned Site, except as otherwise provided in the Act. The recording of this Declaration constitutes record notice and perfection of any Assessment lien on any Privately Owned Site. No further recordation of any claim of any Assessment lien is required. This Section 10.7 does not prohibit actions or suits to recover sums secured by an Assessment lien, or prohibit the Association from taking a deed in lieu of foreclosure, which actions or suits the Association may undertake in accordance with this Declaration. A court may appoint a receiver for an Owner to collect all sums to be due from the order prior to or during the pendency of the action. An Assessment lien may be foreclosed in any manner as a mortgage or real estate.

Section 10.8 Estoppel Certificates; Notice to Mortgagees. The Association shall furnish to an Owner or its designee, upon written request, delivered personally or by certified mail, to the Association's registered agent, a statement setting forth the amount of unpaid Assessments currently levied against an Owner's Privately Owned Site. The statement shall be furnished within fourteen days after receipt of the request.

Section 10.9 Administration of Assessments. The Association shall have the right to inspect and copy all records of any Owner that are related to the Owner's obligation to pay any Assessment. The Association may adopt such Association Rules that it deems necessary and appropriate with respect to the administration of Assessments.

Section 10.10 Assessments on Residential Units. Pursuant to CCIOA 38-33.3-116(2), the average annual common expense liability for each unit restricted to residential purposes (including each residential unit within a Multi-family Site) may not exceed \$450.00 (determined as of January 2005 and which may be adjusted in accordance with any increase in the US Dept of Labor Bureau of Labor Statistics consumer price index for the Denver-Boulder consolidated metropolitan area for the preceding calendar year). The restriction on the average annual common expense liability shall be exclusive of any optional user fees and any insurance premiums paid by the Association. The \$450.00 limitation shall not be increased if the final consumer price index for the preceding calendar year did not increase and shall not be decreased if the final consumer price index for the preceding calendar year decreased.

Section 10.11 Allocation of Assessments. Each Owner shall be responsible for that Owner's share of the Common Expenses, which, except as specifically provided in this Declaration, shall be divided among the Privately Owned Sites included within the Property under this Declaration from time to time according to the following allocation formula: At any



given time, an Owner's share of Common Expenses shall be determined as a fraction, the numerator of which is the total acreage comprising a Privately Owned Site owned by an Owner and the denominator of which is the total acreage of all Lots within the Project. Any Common Expenses or portion thereof benefiting fewer than all of the Lots (which determination shall be made by the Declarant) shall be assessed exclusively against the Lots benefited. Exhibit B attached hereto is a table showing the approximate acreage of each Privately Owned Site within the Project. Declarant reserves the right, during the Declarant Approval Period, to amend Exhibit B in order to accurately reflect acreages of Privately Owned Sites.

Section 10.12. Agreement in Advance Regarding Surpluses. The Executive Board shall establish an adequate reserve fund for the maintenance repair and replacement of those Common Elements that must be periodically maintained, repaired or replaced. To the extent possible, such reserve fund shall be funded through the monthly installments of the annual Common Expense Assessments. Any surplus funds derived from assessments shall be transferred to the reserve fund or used for Association operations during the next fiscal year, in the Executive Board's sole discretion. In no event shall any surplus funds be distributed to Owners. Each Owner by acceptance of the deed to the Privately Owned Site, for each fiscal year of the Association in which such Privately Owned Site is owned, hereby authorizes the Executive Board, in its sole discretion, to either use such surplus during the next fiscal year or to transfer to the reserve fund.

ARTICLE 11 MISCELLANEOUS

Section 11.1 Term of Declaration. Unless amended as herein provided, each provision contained in this Declaration which is subject to the laws or rules sometimes referred to as the rule against perpetuities or the rule prohibiting unreasonable restraints on alienation shall continue and remain in full force and effect for the period of twenty-one (21) years following the death of the survivor of John Ranson and the now living descendants of said person, or until this Declaration is terminated as hereinafter provided, whichever first occurs. Unless amended as herein provided, all other provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration shall be effective until December 31, 2050, and, thereafter, shall be automatically extended for successive periods of ten (10) years each unless terminated by the affirmative vote, by written ballot, of Owners then holding at least seventy-five percent (75%) of the total acreage of Privately Owned Sites within the Project and, during the Declarant Approval Period, with the prior written consent of Declarant. The termination of this Declaration shall be effective upon the Recording of an instrument acknowledging such termination which has been executed by the Owners holding at least seventy-five percent (75%) of the total acreage of Privately Owned Sites within the Project, and, if required as aforesaid, Declarant.

Section 11.2 Amendment of Declaration by Declarant. Until the first Privately Owned Site subject to this Declaration has been converted by Declarant by deed Recorded in the office of the Clerk and Recorder of Archuleta County, Colorado, any of the restrictions in this Declaration may be amended or terminated by Declarant by the Recordation of a written



instrument, executed by Declarant setting forth such amendment or termination. Notwithstanding the foregoing, Declarant hereby reserves and is granted the right and power to make and, where required, to Record technical amendments to this Declaration at any time prior to the date upon which the last Privately Owned Site within the Project has been sold and conveyed by Declarant to any Owner other than Declarant, for the purposes of correcting spelling, grammar, dates, cross references, typographical errors or other similar technical errors, or as may otherwise be required to clarify the meaning of any provision of any or all of such documents.

Section 11.3 Amendment of Declaration by Owners. Except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of Declarant or others, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended at any time and from time to time upon approval of the amendment by Owners holding at least seventy-five percent (75%) of the total acreage of the Privately Owned Sites within the Project, and, if such amendment or repeal is made during the Declarant Approval Period, the consent of Declarant. Any such amendment shall be effective upon the Recording of an instrument acknowledging such amendment which has been properly executed by the Owners and, if required as aforesaid, Declarant.

Section 11.4 Agency Amendments. Notwithstanding anything to the contrary contained in this Declaration, if Declarant shall determine that any amendments to this Declaration shall be necessary in order for existing or future mortgages, deeds of trust or other security instruments to be acceptable to any of the Agencies, then, subject to the following sentence of this Section, Declarant shall have and hereby specifically reserves the right and power to make and execute any such amendments without obtaining the approval of any Owners or First Mortgagees. Each such amendment of this Declaration shall be made, if at all, by Declarant prior to the expiration of the Declarant Approval Period, and each such amendment must contain thereon the written approval of the VA or HUD, to the extent required by VA or HUD.

Section 11.5 Required Consent of Declarant to Amendment. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of any provision of this Declaration shall not be effective unless Declarant has given its written consent to such amendment or repeal, which consent may be evidenced by the execution by Declarant of any certificate of amendment or repeal. The foregoing requirement for consent of Declarant to any amendment or repeal shall terminate upon the expiration of the Declarant Approval Period.

Section 11.6 Special Rights of First Mortgagees. Any First Mortgagee, upon filing a written request therefore with the DRC, shall be entitled to receive written notice from the DRC and/or Association of any default by the Owner indebted to such First Mortgagee in the performance of the Owner's obligations under this Declaration, the Design Review Criteria or any other guidelines or rules of the DRC and/or Association.



Section 11.7 First Mortgagee Exemption from Rights of First Refusal. Any First Mortgagee who obtains title to any Privately Owned Site within the Project pursuant to the remedies provided in the First Mortgage held by such First Mortgagee or pursuant to any foreclosure of the First Mortgage or by deed or assignment in lieu of foreclosure shall be exempt from any right of first refusal if any such right of first refusal is ever contained in this Declaration.

Section 11.8 Priority of First Mortgage Over Assessments. Each First Mortgagee who obtains title to the Privately Owned Site encumbered by the First Mortgage, whether pursuant to the remedies provided in the Mortgage, by judicial foreclosure, or by deed or assignment in lieu of foreclosure, shall take title to the Privately Owned Site free and clear of any claims for unpaid Default Assessments or charges against such Privately Owned Site which accrued prior to the time such First Mortgagee acquires title. A First Mortgagee shall be deemed to have acquired title to a Privately Owned Site on the date of receipt of a deed in lieu of foreclosure, or on the date of receipt of a Certificate of Purchase from the Public Trustee, or on the date of sale pursuant to a judicial foreclosure and receipt of the Sheriff's Certificate of Purchase, as the case may be.

Section 11.9 Notices. Any notice permitted or required to be given under this Declaration shall be in writing and may be given either personally or by mail, facsimile transmission or telegraph. If served by mail, each notice shall be sent postage prepaid, addressed to any Person at the address given by such Person to the DRC and/or Association for the purpose of service of such notice, or to the Privately Owned Site of such Person if no address has been given to the DRC and/or Association, and shall be deemed given, if not actually received earlier, at 5:00 p.m. on the second business day after it is deposited in a regular depository of the United States Postal Service. Such address may be changed from time to time by notice in writing to the DRC and/or Association.

Section 11.10 Persons Entitled to Enforce Declaration. Any Association acting by authority of its board of directors, any Owner of a Privately Owned Site within the Project (subject to the provisions below), the DRC and Declarant shall have the right to enforce any or all of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration against any property within the Project and the Owner thereof; provided, however, that (a) an Owner of a Privately Owned Site within the Project shall have the right of enforcement only if (i) there is not in existence at the time of such enforcement an Association formed with respect to the portion of the Project of which such Owner is a member by virtue of its ownership of such Privately Owned Site and (ii) the Owners of Privately Owned Sites join in the exercise of such right of enforcement. For the purpose of the foregoing sentence, "majority" shall mean the Owners holding more than fifty percent (50%) of the total acreage of the Privately Owned Sites then existing within such portion of the Project, including the lot of the Owner who initiates such endorsement. No other Person shall have any right of enforcement with respect to this Declaration. The right of enforcement shall include the right to bring an action for damages, as well as an action to enjoin any violation of any provisions of this Declaration.



Section 11.11 Violations Constitute a Nuisance. Any violation of any provision, covenant, condition, restriction or equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the letter sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration.

Section 11.12 Enforcement by Self Help. Declarant or the DRC or the Association, or any authorized agent of any of them, may enforce, by self help, any of the provisions, covenants, conditions, restrictions or equitable servitudes contained in this Declaration, provided such self help is (except in the event of an "Emergency Situation," as hereinafter defined) preceded by Notice and Hearing. An "Emergency Situation" shall mean a situation in which prompt action is required to be taken in order to prevent or to reduce the effect of any imminent or threatened damage or harm to person or property, to preserve property or to prevent or minimize the effects of any negative impacts on surrounding property from any condition existing on the property upon which the entry is to occur. Any such self help by Declarant, Association or the DRC may include entering upon the respective property and taking such actions as Declarant, Association or the DRC, as the case may be, determines are necessary or desirable to cause compliance with this Declaration, all without liability to the Owner of the affected property and without any further notice or opportunity to cure afforded to such Owner, in which case Declarant, Association or the DRC, as the case may be, shall be entitled to recover from such Owner, in addition to all other amounts to which Declarant, Association or the DRC, as the case may be, shall be entitled, all costs and expenses incurred by Declarant, Association or the DRC, as the case may be, in so doing.

Section 11.13 Violations of Law. Any violation of any federal, state, municipal or local law, ordinance, rule or regulation, pertaining to the ownership, occupation or use of any property within the Project, is hereby declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

Section 11.14 Remedies Cumulative. Each remedy provided under this Declaration is cumulative and not exclusive.

Section 11.15 Costs and Attorneys' Fees. In any action or proceeding under this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorneys' fees and expert witness fees.

Section 11.16 Limitation on Liability. Except as may otherwise be provided by law, the DRC, Declarant, and any member, or officer, director, agent or employee of either of the same, shall not be liable to any Person for any action or for any failure to act if the action or failure to act was in good faith and without malice.

Section 11.17 No Representations or Warranties. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its officers, directors, agents or employees in connection with any portion of the Property,



or any Improvement thereon, as to its or their physical condition, zoning, compliance with applicable laws, or fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, costs of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in a writing signed by Declarant. ANY AND ALL WARRANTIES WITH RESPECT TO ANY PORTION OF THE PROJECT, AND ANY IMPROVEMENTS THEREON, EXPRESS OR IMPLIED, WHETHER ARISING UNDER FEDERAL OR STATE LAW, INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OR MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY SPECIFICALLY DISCLAIMED.

Section 11.18 Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purposes of this Declaration.

Section 11.19 Governing Law. This Declaration shall be construed and governed under the laws of the State of Colorado.

Section 11.20 Severability. Each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability or partial invalidity or partial unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

Section 11.21 Number and Gender. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

Section 11.22 Captions for Convenience. The titles, headings and captions used in this Declaration are intended solely for convenience of reference and shall not be considered in construing any of the provisions of this Declaration.

Section 11.23 Restrictions Imposed. The Project shall be subject to all of the covenants, conditions, Restrictions, limitations and other provisions contained in this Declaration and in the applicable Plat.

Section 11.24 Inconsistencies Between Laws and Instruments. In the event of any inconsistency between this Declaration and the Plat, this Declaration shall control. In the event of any inconsistency between the Declaration and the Design Review Guidelines, the terms of this Declaration shall control.

Section 11.25 Additional Enforcement Powers. In addition to any other enforcement powers under this Declaration, the DRC shall have the right to enforce any or all of the provisions of the Design Review Criteria or other guidelines or rules of the DRC through any or all of the enforcement mechanisms provided by this Declaration.

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



20504450 5/10/2005 8:20 AM
43 of 48 DCL R\$241.00 D\$0.00

June Madrid
Archuleta County

PAGOSA PARTNERS I, INC.

Dan C. Sanders Jr

By: Dan C. Sanders, Jr

Title: V.P. Pagosa Partners I Inc

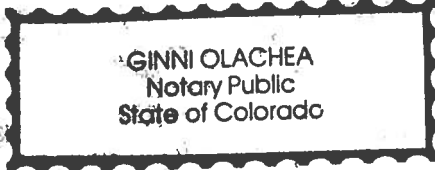
STATE OF COLORADO)
) ss.
COUNTY OF ARCHULETA)

The foregoing instrument was acknowledged before me this 27th day of April, 2005, by Dan C. Sanders, Jr., Vice President of Pagosa Partners I, Inc.

WITNESS my hand and official seal.

My commission expires: 03 Oct 2006

Ginni Olachea
Notary Public





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R\$241.00 D\$0.00

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Archuleta County

EXHIBIT A
TO
MASTER DECLARATION
FOR
ASPEN VILLAGE

(Description of Expansion Property)

Lot A2, Harmon Park Subdivision according to the Plat thereof filed Dec. 21, 2004 as reception no. 20412244, in office of clerk and recorder, Archuleta County. Plat No. 718

The property is 3.18 acres.



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EXHIBIT B
TO
MASTER DECLARATION
FOR
ASPEN VILLAGE

Lots

% Allocated for Voting

% Allocated for Common Expenses



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EXHIBIT B

Voting rights by lot ownership - note openspace and common areas do not vote

BLOCK	LOT	LOT ACERAGE	% of TOTAL
1	1	Cottages	See Cottages Break Down Page 2 of 3
2	1	Enclaves	See Enclave Break Down Page 3 of 3
3	1	0.88	1.66477%
3	2	0.87	1.64586%
3	3	5.00	9.45895%
3	4	1.02	1.92963%
3	5	1.36	2.57283%
4	1	1.44	2.72418%
4	2	0.69	1.30533%
4	3	0.85	1.60802%
4	4	3.00	5.67537%
5	1	1.24	2.34582%
5	2	0.86	1.62694%
5	3	1.72	3.25388%
5	4	1.03	1.94854%
5	5	0.73	1.38101%
6	1	4.52	8.55089%
6	2	1.06	2.00530%
6	3	0.99	1.87287%
7	1	3.38	6.35641%
8	1	0.86	1.62694%
8	2	1.25	2.36474%
8	3	6.65	12.58040%
8	4	1.60	3.02686%
9	1	0.70	1.32425%
9	2	0.65	1.22966%
9	3	0.62	1.17291%
9	4	0.90	1.70261%
9	5	1.52	2.87552%
SUBTOTAL		45.37	85.8%



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EXHIBIT B

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SUBDIVISION			SUBDIVISION				
COTTAGES	LOT	ACERAGE	Percent of	COTTAGES	LOT	ACERAGE	Percent of
			Total				Total
1		0.115	0.21756%	28		0.131	0.24782%
2		0.125	0.23647%	29		0.148	0.27998%
3		0.126	0.23837%	30		0.127	0.24026%
4		0.122	0.23080%	31		0.110	0.20810%
5		0.139	0.26296%	32		0.110	0.20810%
6		0.144	0.27242%	33		0.096	0.18161%
7		0.134	0.25350%	34		0.105	0.19864%
8		0.104	0.19675%	35		0.119	0.22512%
9		0.158	0.29890%	36		0.112	0.21188%
10		0.144	0.27242%	37		0.119	0.22512%
11		0.134	0.25350%	38		0.136	0.25728%
12		0.112	0.21188%	39		0.109	0.20621%
13		0.123	0.23269%	40		0.108	0.20431%
14		0.121	0.22891%	41		0.103	0.19485%
15		0.112	0.21188%	42		0.097	0.18350%
16		0.112	0.21188%	43		0.100	0.18918%
17		0.097	0.18350%	44		0.096	0.18161%
18		0.097	0.18350%	45		0.087	0.16459%
19		0.097	0.18350%	46		0.119	0.22512%
20		0.113	0.21377%	47		0.111	0.20999%
21		0.152	0.28755%	48		0.108	0.20431%
22		0.116	0.21945%	49		0.135	0.25539%
23		0.120	0.22701%	50		0.132	0.24972%
24		0.120	0.22701%	51		0.109	0.20621%
25		0.111	0.20999%	52		0.100	0.18918%
26		0.149	0.28188%	53		0.099	0.18729%
27		0.155	0.29323%	54		0.101	0.19107%
SUBTOTAL			3.352	6.34% SUBTOTAL	3.027	5.73%	



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EXHIBIT B

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SUBDIVISION		Percent of	SUBDIVISION		Percent of
ENCLAVE LOT	ACERAGE	Total	ENCLAVE LOT	ACERAGE	Total
A1	0.025	0.04729%	D1	0.025	0.04729%
A2	0.022	0.04540%	D2	0.022	0.04162%
A3	0.024	0.04540%	D3	0.024	0.04540%
A4	0.022	0.04162%	D4	0.022	0.04162%
A5	0.025	0.04729%	D5	0.024	0.04540%
A6	0.025	0.04729%	D6	0.022	0.04162%
A7	0.022	0.04162%	D7	0.025	0.04729%
A8	0.024	0.04540%	E1	0.025	0.04729%
A9	0.022	0.04162%	E2	0.022	0.04162%
A10	0.025	0.04729%	E3	0.022	0.04162%
B1	0.025	0.04729%	E4	0.025	0.04729%
B2	0.022	0.04162%	F1	0.022	0.04162%
B3	0.024	0.04540%	F2	0.024	0.04540%
B4	0.022	0.04162%	F3	0.024	0.04540%
B5	0.025	0.04729%	F4	0.022	0.04162%
B6	0.025	0.04729%	F5	0.022	0.04162%
B7	0.022	0.04162%	F6	0.024	0.04540%
B8	0.024	0.04540%	F7	0.024	0.04540%
B9	0.022	0.04162%	F8	0.022	0.04162%
B10	0.025	0.04729%	G1	0.022	0.04162%
C1	0.025	0.04729%	G2	0.024	0.04540%
C2	0.022	0.04162%	G3	0.024	0.04540%
C3	0.024	0.04540%	G4	0.022	0.04162%
C4	0.022	0.04162%			
C5	0.025	0.04729%			
SUBTOTAL		0.590	1.12% SUBTOTAL	0.534	1.01%

TOTAL VOTING ACRES 52.86



EXHIBIT A-1
LEGAL DESCRIPTION OF ASPEN VILLAGE
PLANNED UNIT DEVELOPMENT

TRACT ONE:

That part of the SW/4SE/4 of Section 16, and that part of the NW/4NE/4 and the NE/4NW/4 of Section 21, Township 35 North, Range 2 West, N.M.P.M., Archuleta County, Colorado, more particularly described as follows, to wit:

Beginning at the northeast corner of said NW/4NE/4 of Section 21, said point bearing N88°53'52"W, 1306.30 feet, more or less, from the northeast corner of said Section 21, said point also being the northwest corner of Parcel 2 of said Section 21, as shown, on the map of Pagosa Alpha Section recorded June 13, 1969, as Reception No. 91872, in the Office of the Clerk and Recorder of said county; thence from said Point of Beginning, S00°04'22"W, 1325.38 feet, more or less, to the southeast corner of the NW/4NE/4 of Section 21; thence N88°54'29"W, 2616.25 feet along the south line of the N/2N/2 of said Section 21 to the southwest corner of the NE/4NW/4 of said Section 21, which is also the northwest corner of Parcel 10 of said Pagosa Alpha Section; thence N00°15'16"E along the west line of the NE/4NW/4 a distance of 306.41 feet, more or less, to a point on the southeasterly right-of-way line of U.S. Highway 160; thence N56°17'10"E along said southeasterly right-of-way line, 3162.86 feet, more or less, to the east line of the SW/4SE/4 of said Section 16 thence; S01°04'50"W along the east line of said SW/4SE/4 of Section 16, a distance of 786.56 feet to the Point of Beginning. LESS AND EXCEPT: Alpha Drive, as shown on that certain plat recorded November 6, 1972, as Reception No. 76769, in the Office of the Clerk and Recorder, Archuleta County, Colorado. ALSO LESS AND EXCEPT a tract of land being a portion of the NENW/4 of said Section 21, lying south of the southeasterly right-of-way line of U.S. Highway 160 as it existed on October 14, 1985, as shown on Results of Survey recorded as Reception No. 135026, in the Office of the Clerk and Recorder, Archuleta County, Colorado, and lying westerly of Alpha Drive, said tract being more particularly described as follows, to wit: Commencing at the southwest corner of said NE/4NW/4 of Section 21; thence N00°15'16"E, a distance of 306.41 feet to the southeasterly right-of-way line of U.S. Highway 160; thence N56°17'18"E along said right-of-way line a distance of 1470.28 feet to the westerly boundary line of Alpha Drive as described in said plat recorded November 6, 1972, as Reception No. 76769; thence along the westerly boundary of Alpha Drive 31.42 feet through a curve to the right having a radius of 20.00 feet and a delta angle 90°; thence continuing along the westerly boundary line of said Alpha Drive 100.47 feet along a curve to the right having a radius of 170.00 feet and a delta angle of 33°51'38" to a point; thence S00°08'56"W a distance of 1045.91 feet along the westerly boundary line of said Alpha Drive to a point on the south boundary line of said NE/4NW/4 of Section 21; thence N88°54'29"W, a distance of 1278.40 feet along the south boundary line of said NE/4NW/4 of Section 21 to the Point of Beginning.

TRACT TWO:

A tract of land located in the SE/4SE/4, of Section 16, Township 35 North, Range 2 West, N.M.P.M., Town of Pagosa Springs, Archuleta County, Colorado, and entirely within Parcel C of the Pagosa Partners Minor Subdivision, the plat of which subdivision is filed under Reception No. 99011753, of the records in the Office of the Archuleta County Clerk and Recorder, which tract is more particularly described by meters and bounds as follows, to-wit:



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Beginning at the northwest corner of Parcel A Pagosa Partners Minor Subdivision, which corner is identical with the northeast corner of the tract herein described; thence S33°41'37"E, 284.59 feet along the west boundary of said Parcel A to the angle point therein; thence S01°00'48"W, 49.70 feet along the west boundary of said Parcel A to the southeast corner of the tract herein described; thence S83°44'47"W, 213.42 feet to the southwest corner of the tract herein described; thence 193.09 feet on the arc of a curve to the left, having a radius of 330.00 feet, the long chord of which curve bears N16°55'57"W, 190.35 feet; thence N33°41'40"W, 48.59 feet to the northwest corner of the tract herein described; thence N57°36'59"E, 164.26 feet to Point of Beginning.

TRACT THREE:

All that portion of the E1/2SE1/4 of Section 16, Township 35 North, Range 2 West, N.M.P.M., Archuleta County, Colorado, lying and being southeasterly of U.S. Highway 160, said tract being more particularly described as follows, to-wit:

Beginning at a found G.L.O. brass cap which is the southeast corner of said Section 16 whence the northeast corner of said Section 16 bears N01°00'48"E, 5329.23 feet; thence from said southeast corner of Section 16 N88°51'38"W, 1307.14 feet along the south boundary line of said Section 16 to a rebar and aluminum cap marked P.E. and L.S. 5933 being the southwest corner of the E1/2SE1/4 of said Section 16 whence the SE/4 corner of said Section 16 bears N88°51'38"W, 1307.14 feet; thence N01°08'50"E, 788.19 feet along the west boundary line of said E1/2SE1/4 to a found rebar and aluminum cap marked L.S. 12064 being a point of intersection of the west boundary line of said E1/2SE1/4 and the southeasterly right way line of U.S. Highway No. 160; thence N58°18'37"E, 1588.29 feet along said southeasterly right of way line to found rebar and cap marked L.S. 9009 being the point of intersection of said southeasterly right of way line and the east boundary line of said Section 16 whence the northeast corner of said Section 16 bears N01°00'48"E, 3635.91 feet; thence S01°00'48"W, 1693.32 feet along the east boundary line of said Section 16 to the southeast corner of said Section 16 and the Point of Beginning. Excepting therefrom, that certain parcel conveyed to the State of Colorado, Department of Highways in deed recorded July 24, 1995 as Reception No. 1995004609, in the Office of the Clerk and Recorder, Archuleta County, Colorado.

TRACT FOUR:

Parcel B of the Replat of Pagosa Partners Minor Subdivision recorded in the Office of the Archuleta County, Clerk and Recorder under Reception Number 20401277.

TRACT FIVE:

All that portion of Parcel A of the Replat of Pagosa Partners Minor Subdivision recorded in the Office of the Archuleta County, Clerk and Recorder under Reception Number 20401277.

TRACT SIX:

All that part of Parcel C, as shown hereon, of the Replat of Pagosa Partners Minor Subdivision recorded in the Office of the Archuleta County, Clerk and Recorder under Reception Number 20401277.

Contains 78.64 acres, more or less.



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1 of 5

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Archuleta County

**FIRST SUPPLEMENT TO
MASTER DECLARATION FOR
ASPEN VILLAGE
PLANNED DEVELOPMENT**

THIS FIRST SUPPLEMENT is intended to supplement and amend that certain Master Declaration for Aspen Village Planned Development recorded on May 10, 2005 at Reception No. 20504450 in the office of the Archuleta County Clerk and Recorder, (the "Master Declarations"). This First Supplement to Master Declaration For Aspen Village Planned Development is hereby made this 16 day of August, 2005 by Pagosa Partners 1, Inc., a Colorado corporation (the "Declarant").

The Declarant is the owner of more than 75% of the real property comprising the Aspen Village Planned Unit Development and has the authority to amend this Master Declaration for the purposes described herein pursuant to Sections 11.2 and 11.3 of the Master Declaration.

This First Supplement is hereby amended in order to further clarify and provide a detailed legal description and map depicting the real property governed by the Master Declaration.

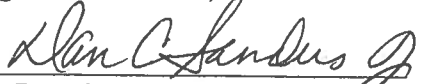
NOW THEREFORE, the Declarant hereby certifies and declares that the Declarations are amended as follows:

Section 1.1 of the Master Declaration is hereby amended as follows:

The real property described as, and consisting of, the Aspen Village Planned Unit Development (the "Project") is more fully described in the legal description attached hereto as Exhibit A-1. A map of the Aspen Village Planned Unit Development is attached hereto as Exhibit A-2.

IN WITNESS WHEREOF, this First Supplement to Master Declaration for Aspen Village Planned Development has been executed and acknowledged by the undersigned.

Pagosa Partners 1, Inc. a Colorado corporation


By Dan C. Sanders, Jr., President

State of Colorado)
) ss.
County of Archuleta)

The foregoing instrument was acknowledged before me this 16 day of August 2005, by Dan J. Sanders, President Pagosa Partners I, Inc., a Colorado corporation.

Pagosa Partners 1 INC
DBA Aspen Village
390 Boulder Dr Ste 200
Pagosa Springs CO 81147



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June Madrid

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Archuleta County

WITNESS my hand and official seal.

My commission expires: 7/28/07

ROCHELLE R. WARD
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires: 7/28/07

Rochelle R. Ward
Notary Public

**SECOND SUPPLEMENT TO
MASTER DECLARATION FOR
ASPEN VILLAGE
PLANNED DEVELOPMENT**

THIS SECOND SUPPLEMENT is intended to supplement and amend that certain Master Declaration for Aspen Village Planned Development recorded on May 10, 2005 at Reception No. 20504450 in the office of the Archuleta County Clerk and Recorder, (the "Master Declarations") and the First Supplement recorded on August 17, 2005, at Reception No. 20508528. This Second Supplement to Master Declaration For Aspen Village Planned Development is hereby made effective this 9th day of June, 2006 by Pagosa Partners 1, Inc., a Colorado corporation (the "Declarant").

The Declarant has the authority to record technical amendments to this Master Declaration for the purposes described herein pursuant to Sections 10.11 and 11.2 of the Master Declaration.

The purpose of this Second Supplement is to correct and clarify the table which reflects the acreage of each Lot for each Lot located within Aspen Village and each Lot owner's corresponding percentage allocation for voting and common expenses.

The Master Declarations contemplate the existence of sub-associations within Aspen Village and this amendment shall also further clarify the authority of sub-associations with respect to the responsibility of payment of assessments and voting by Sub-Associations.

NOW THEREFORE, the Declarant hereby certifies and declares that the Declarations are amended as follows:

1. Amended Exhibit B. Exhibit B of the Master Declaration is hereby deleted and replaced in its entirety with the attached amended "Exhibit B To Master Declaration For Aspen Village."
2. Voting. As required by Section 9.6 of the Master Declarations, the Sub-association Board shall be allocated the vote of a multi-family Lot. The Sub-association shall be responsible for, and the Master Association hereby delegates to the Sub-association, the responsibility for administering and counting the ballots (which have been prepared by the Master Association) of its unit owners/members and for providing the Master Association with the ballot results. The Master Association shall be entitled to rely upon the tally and/or results provided by the Sub-Association Board as constituting a valid and proper vote by its unit owner/members. The Master Association may, at its discretion, review the records of the Sub-Association with respect to any Master Association ballot procedures.

Pagosa Partners I, Inc.
90 Boulder Dr. Suite 200
Pagosa Springs, CO 81147



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Archuleta County

3. Assessments. The Master Association shall bill each Sub-Association directly for any assessments allocated to it. The Master Association hereby delegates to the Sub-Association, the authority to allocate such assessments among its unit owner/members in such proportions as dictated by its Sub-Association governing documents. Failure of a Sub-Association to pay assessments of the Master Association shall be a default under the Master Declaration and shall entitle the Master Association to lien the non-paying unit owners as provided in Section 10.7 of the Master Declaration and take such other action as available under Colorado law and the Master Declaration. The Sub Association shall cooperate with the Master Association in the collection of assessments levied by it.

IN WITNESS WHEREOF, this Second Supplement to Master Declaration for Aspen Village Planned Development has been executed and acknowledged by the undersigned.

Pagosa Partners 1, Inc. a Colorado corporation

Mark J. Kneedy
By: Mark Kneedy, President

State of Illinois)
County of Cook) ss.

The foregoing instrument was acknowledged before me this 9th day of June 2006, by Mark Kneedy, President Pagosa Partners I, Inc., a Colorado corporation.

WITNESS my hand and official seal.

My commission expires: 10/16/07

Erica R Navarro
Notary Public

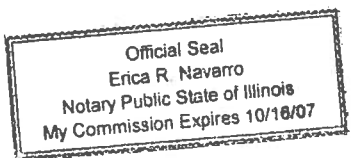


EXHIBIT B
TO
MASTER DECLARATION
FOR ASPEN VILLAGE

LOTS		ACREAGE	% ALLOCATED FOR VOTING AND COMMON EXPESNES
BLOCK - LOT			
1	1	10.29	16.74%
2	1	4.03	6.56 %
3	1	0.88	1.43%
3	2	0.87	1.42%
3	3	5.0	8.14%
3	4	1.02	1.66%
3	5	1.36	2.21%
3	6	0.9	1.46%
4	1	1.37	2.23%
4	2	0.69	1.12%
4	3	0.85	1.38%
4	4	3.0	4.88%
5	1	1.24	2.02%
5	2	0.86	1.40%
5	3	1.72	2.80%
5	4	1.03	1.68%
5	5	0.73	1.19%
6	1	4.52	7.35%
6	2	1.06	1.72%
6	3	0.99	1.61%
7	1	3.36	5.47%
8	1	0.85	1.38%
8	2	1.25	2.03%
8	3	6.48	10.54%
8	4	1.54	2.51%
9	1	0.7	1.14%
9	2	0.65	1.06%
9	3	0.62	1.01%
9	4	0.9	1.46%
9	5	1.51	2.46%
D	1	0.66	1.07%
D	2	0.53	0.86%
TOTALS		61.46	100.00%

