

Approved by the Board of Directors September 20, 2021  
Pending approval of 2/3 of the Owners

SECOND AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
THE RANCH  
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FOR  
THE RANCH

THIS SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE RANCH, La Plata County, Colorado, (this “Declaration”) is made as of \_\_\_\_\_, 2021 by the undersigned persons, who are duly authorized to execute this document on behalf of The Ranch Property Owners Association (the “Association”) a Colorado nonprofit corporation located in Durango, Colorado 81301.

**RECITALS**

A. The owners of lots within the common interest community known as The Ranch desire to amend and restate that certain First Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions For The Ranch recorded at Reception No. 1130767 on July 13, 2017 and those certain Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Ranch recorded May 16, 2012 at Reception No. 1046918, January 6, 2012 at Reception No. 1040918, recorded on June 8, 2006 at Reception No. 935450, and recorded on February 16, 2001 at Reception No. 800591 (collectively all of the foregoing amendments are referred to herein as the “Prior Declaration”). The Prior Declaration amended and terminated a number of declarations and covenants pertaining to different parcels of the property comprising The Ranch which are not referenced herein but which are identified in that certain second amendment to the covenants, conditions and restrictions for “The Ranch” recorded on March 7, 1991 at Reception No. 607484 (the “1991 Declaration”).

B. Among other things, the purpose for amending and restating the Declaration is to (i) eliminate provisions which are no longer applicable; (ii) correct conflicting provisions; (iii) eliminate the design review criteria and procedures which have been moved and made a part of a separate instrument entitled The Ranch Property Owners Association Architectural Rules; (iv) eliminate provisions which are now contained in the Bylaws and Governance Policies and Procedures and (v) create additional provisions that bring the Association and its governing documents into compliance with changes in Colorado law governing the operation of common interest pursuant to the Colorado Common Interest Ownership Act as set forth in Colorado Revised Statutes §§ 38-33.3-101 et. seq. (the “Act”).

C. This Declaration shall supersede and replace, in its entirety, the Prior Declaration (which includes all of the instruments described in paragraph A above) of record in the La Plata County real property records.

D. The Association desires to protect and maintain The Ranch as a residential area of high quality and value; to enhance and protect its desirability and attractiveness; and to provide for the enhancement of natural resources and the maintenance of the common access and utilities serving the community, pursuant to this Declaration.

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E. The Owners, by no less than the affirmative vote of two-thirds of Owners of Lots within The Ranch, and pursuant to 38-33.3-217 of the Act, have approved and hereby adopt this Declaration.

## **ARTICLE I DECLARATION AND SUBMISSION**

The real property described on Exhibit A attached hereto and incorporated herein (the “Property”) shall be leased, held, sold, and conveyed subject to the following covenants, conditions, and restrictions, which are for the purpose of protecting the value and desirability of the common interest community, and which shall run with the land and be binding on all parties and heirs, successors, and assigns of parties having any right, title, or interest in all or any part of the Property. The Property identified herein is subject to the provisions of the Act.

## **ARTICLE II DEFINITIONS**

The following terms when used in this Declaration or any amendment or supplement hereto shall have the following meanings:

Section 2.1 “Act” means the Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101, et seq., Colorado Revised Statutes, as it may be amended from time to time.

Section 2.2 “Additional Property” means the real property consisting of approximately 5.593 acres as described in that certain warranty deed recorded on December 17, 2007 at Reception No. 969351 in the office of the clerk and recorder for La Plata County and also described as Parcel No. 5597-023-05-052. The Additional Property may be added to the Declaration subject to the terms and conditions herein.

Section 2.3 “Allocated Interests” means a fraction or percentage of the Common Expenses of the Association and a portion of the votes in the Association allocated to each Lot in accordance with Article XII.

Section 2.4 “Architecture Committee” means the committee formed pursuant to Article VI of this Declaration for the purpose of maintaining the quality and architectural harmony of improvements and structures within The Ranch and for the purpose of reviewing and approving the design and construction of improvements or changes to lands within The Ranch.

Section 2.5 “Architectural Rules” means The Ranch Property Owners Association Architectural Rules dated July 15, 2019, as amended from time to time.

Section 2.6 “Articles” means the Articles of Incorporation for the Ranch Property Owners Association, Inc. filed with the Colorado Secretary of State, and any amendments made to those Articles from time to time.

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Section 2.7 “Assessments” means the Annual, Special, and Default Assessments levied pursuant to Article VIII.

Section 2.8 “Association” means The Ranch Property Owners Association, Inc.

Section 2.9 “Association Documents” means this Declaration, the Articles of Incorporation, the Bylaws, the Architectural Rules, the Governance Policies and Procedures and any rules and regulations adopted by the Association pursuant to the authority granted in this Declaration.

Section 2.10 “Bylaws” means the Amended and Restated Bylaws as recorded at Reception No. 1120665 on November 14, 2016 adopted by the Association, as amended from time to time.

Section 2.11 “Common Elements” means all the real property and improvements thereon, in which the Association owns an interest for the common use and enjoyment of all of the Owners on a nonexclusive basis. Such interest may include, without limitation, the Open Space depicted on the Plats, the Roads and any other easements for ingress and egress, utility easements, common landscaping, entrance mailboxes, common fencing and signage and irrigation piping and facilities. The real property consisting of Open Space, greenbelts and common landscaping is sometimes referred to in this Declaration as “Common Area.”

Section 2.12 “Common Expense” means (i) all expenses expressly declared to be common expenses by this Declaration, or the Bylaws of the Association; (ii) all expenses of administering, servicing, conserving, managing, maintaining, or repairing the Common Elements, including but not limited to: maintenance, repair and improvement and snow plow of the Roads, maintenance, repair and improvement of common landscaping, common fencing, spraying and eradication of weeds, fire mitigation, maintenance, repair and improvement of irrigation systems and maintenance and replacement of mailboxes and signage; (iii) insurance premiums for the insurance carried under Article IV; and (iv) all expenses lawfully determined to be common expenses by the Executive Board of the Association, including, but not limited to, administrative, legal, accounting, and any allocations to reserves.

Section 2.13 “Common Interest Community” means the planned community which is the subject of this Declaration, consisting of the Property and all of the improvements constructed on it and otherwise known as The Ranch.

Section 2.14 “Declarant” means the original developing entity, The Ranch Development Company, Inc. and its successors and assigns, as defined in § 103(12) of the Act. The period of Declarant Control as provided under the Act has expired and Declarant no longer owns any Lots within the Common Interest Community as of the date of this Declaration.

Section 2.15 “Declaration” means and refers to this Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions for The Ranch, including any future amendments or supplements thereto.

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Section 2.16 “Director” means a member of the Executive Board of the Association.

Section 2.17 “Executive Board” (also known as Board of Directors) means the governing body of the Association elected to perform the obligations of the Association relative to the operation, maintenance, and management of the Common Interest Community and all improvements on or within the Common Interest Community.

Section 2.18 “First Mortgage” means any Mortgage the priority of which is not subject to any monetary lien or encumbrance except liens for taxes or other liens that are given priority by statute; “First Mortgagee” means any person named as mortgagee in a First Mortgage.

Section 2.19 “Governance Policies and Procedures” means the Governance Policies and Procedures adopted by the Association March 10, 2015, as amended from time to time.

Section 2.20 “Improvements” means any construction, structure, equipment, fixture or facilities existing or to be constructed in the Common Interest Community, including but not limited to, buildings, fences, gates, trees and shrubbery planted by the Association, utility wires, pipes, meters and any water and irrigation facilities and equipment.

Section 2.21 “Lot” means a parcel of the real property which is designed for separate ownership or occupancy, the boundaries of which are shown on the Plat. For purposes of the Act, “Lot” shall have the same definition as the term “Unit” has under the Act. “Lot Owner” or “Owner” means any Person who owns a Lot by virtue of a fee simple deed. Lot Owner does not include a Person having only a security interest or any other interest in a Lot solely as security for an obligation. The boundaries of each Lot subject to this Declaration will be as shown in the Plats comprising the Property.

Section 2.22 “Member” means every person or entity that holds membership in the Association.

Section 2.23 “Mortgage” means any mortgage, deed of trust, or other document pledging any Lot or interest therein as security for payment of a debt or obligation. Mortgage is also defined as a Security Interest under the Act. “Mortgagee” means any person named as a mortgagee or beneficiary in any Mortgage, or any successor to the interest of any such person under such Mortgage.

Section 2.24 “Person” means an individual, corporation, trust, partnership, limited liability company, association, joint venture, government, government subdivision or agency or other legal or commercial entity.

Section 2.25 “Plat” or “Plats” means the land survey plats that have been filed in the Office of the Clerk and Recorder of La Plata County, which plats are identified in the legal description of the Property in Exhibit A.

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Section 2.26 “Roads” means those access roads and ingress and egress easements, including such improvements as bridges, culverts, and like, which provide general access to The Ranch and its Lots as shown more particularly on the Plats.

Section 2.27 “Rules and Regulations” means those rules and regulations adopted, amended or repealed by the Executive Board, from time to time, for The Ranch.

Each capitalized term not otherwise defined in this Declaration or in the Plat shall have the same meanings specified or used in the Act.

### **ARTICLE III NAME, LOCATION, NUMBER AND SIZE OF LOTS**

Section 3.1 Name. The name of the common interest community is The Ranch.

Section 3.2 Description. The entire Common Interest Community is situated in the County of La Plata, State of Colorado, is located on the Property, and is a planned community as defined in the Act.

Section 3.3 Association. The name of the association is The Ranch Property Owners Association, Inc. The Association is organized under the laws of the State of Colorado as a nonprofit corporation with the purpose of exercising the functions as herein set forth.

Section 3.4 Number of Lots. The number of Lots in The Ranch at the time of recordation of this Declaration is 107.

### **ARTICLE IV MEMBERSHIP, VOTING RIGHTS; ASSOCIATION OPERATIONS**

Section 4.1 Membership in Association. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. An Owner shall not transfer, pledge or alienate his membership in the Association in any way, except upon the sale or encumbrance of his Lot and then only to the purchaser or Mortgagee of his Lot.

Section 4.2 Voting. The Association shall have one class of voting membership, which shall consist of all Owners. Each member is allocated one vote per each Lot owned by that member as described in Article XII. When more than one Person holds an interest in any Lot, all such Persons shall be Members; however, the vote for such Lot shall be exercised by one individual Person or alternative Person appointed by proxy in accordance with the Bylaws. In the absence of a proxy, the vote allocated to the Lot shall be suspended in the event more than one Person or entity seeks to exercise the right to vote on any one matter. Any Owner of a Lot that is leased may assign his voting right to the tenant, provided that a copy of a proxy appointing the tenant is furnished to the Secretary of the Association prior to any meeting in which the tenant exercises the voting right. In no event shall more than one vote be cast with respect to any one Lot.

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Section 4.3 Books and Records. In accordance with its Governance Policy for Inspection of Records, the Association shall make available for inspection to Owners and to Mortgagees, current copies of the Association Documents, the books, records, and financial statements of the Association, and minutes of Executive Board and committee meetings. The Association may charge a reasonable fee for copying such materials. The Association shall maintain such books and records as may be required under the Act or by other applicable law.

Section 4.4 Manager. The Association may employ or contract for the services of a manager to whom the Executive Board may delegate certain powers, functions, or duties of the Association, as provided in the Bylaws of the Association.

Section 4.5 Powers of the Association and Implied Rights and Obligations. The Association, through its Executive Board, shall have the power to exercise, to the fullest extent, any powers conferred by this Declaration, Section 2.2 of the Bylaws, or the Act. The Association may exercise any right or privilege expressly granted to the Association in the Association Documents, and every other right or privilege reasonably implied from the existence of any right or privilege given to the Association under the Association Documents or reasonably necessary to affect any such right or privilege. The Association shall perform all of the duties and obligations expressly imposed upon it by the Association Documents, and every other duty or obligation implied by the express provisions of the Association Documents as necessary to reasonably satisfy any such duty or obligation.

Section 4.6 Association Rules. The Association may, by a majority vote of the Executive Board, adopt, amend and repeal rules and regulations for The Ranch (the “Rules and Regulations”) The purpose of the Rules and Regulations shall be to implement, supplement or otherwise carry out the purposes and intentions of this Declaration; provided such Rules and Regulations must be consistent with this Declaration.

Section 4.7 Executive Board Powers and Duties; Limitations. The Executive Board shall have, subject to the limitations contained in this Declaration, Section 2.2 of the Bylaws, and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community. The Executive Board is authorized to administer the Animas Consolidated Ditch Co. water shares allocated to the Association. The Executive Board is authorized to execute leases for grazing and agriculture activities on Common Elements. The Executive Board may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community or to elect Members of the Executive Board or determine the qualifications, powers and duties or terms of office of Executive Board Members, but the Executive Board may fill vacancies in its membership for the unexpired portion of any Director’s term. The Executive Board shall be restricted concerning the investment of reserves as provided for in Article V below.

## **ARTICLE V RESERVE FUNDS**

Section 5.1 Reserve Funds. The Executive Board shall appoint the members of the Finance Committee according to the terms set forth in this Article V. The Finance Committee is

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responsible for developing the amounts needed for the Association's Reserve Fund and for investing and monitoring the funds set-aside for future capital projects.

A. Makeup of the Finance Committee. The Finance Committee shall consist of the Treasurer as Chairperson and no more than three (3) Owners who have accounting, finance or business experience. The members are selected by the Chairperson and approved by the Executive Board, each to serve three-year terms. No member may serve for more than two consecutive terms; after serving for two terms, there must be a "sitting out" period before a member can serve another term as a committee member. The Committee shall participate in the preparation of the Annual Budget, recommend assessments to the Executive Board and the manner in which said assessments shall be enforced and evaluate the Association's investment and capital expenditure program with warranted recommendations to the Board.

B. Determining the Size of the Reserve Fund. The Committee shall meet annually to review and update the projections of when major capital items will need replacement or significant repairs. These capital items include irrigation pumps and related equipment, the streets, ponds, fences, tennis court, buildings and roof structures and other miscellaneous items. If necessary, suppliers and contractors may be contacted for cost estimates. The aforementioned future costs, adjusted for inflation and reduced by expected earnings on investments, are then allocated to each year until the year of expected replacements. The amount needed to be added to the reserve each year to achieve full funding is factored into the operating budget and is transferred to the Reserve Fund shortly after the end of each fiscal year. Committee projections shall be made available to all Lot Owners at the time of the annual assessment.

C. Determining the Investments. The Reserve Fund is invested only in investment grade or higher bonds and a money market fund. This includes money market funds and certificates of deposit that are FDIC insured, exchange traded short-term bond funds and short-term mutual bond fund. The firm of Morgan Stanley or an equally qualified replacement acts as advisor and custodian of the investments. The Finance Committee shall meet two or three times a year to review the investment strategy and existing portfolio. After consultation with the advisor and after Finance Committee approval, orders to buy and sell securities shall be transmitted by the Treasurer. A detailed list of investments shall be made available to Lot Owners on no less than an annual basis.

## **ARTICLE VI ARCHITECTURE COMMITTEE**

Section 6.1. Committee Membership and Organization. The Architecture Committee shall consist of a Chairperson, who may be a member of the Board, and no more than two (2) Owners, who shall be appointed by the chairperson and confirmed by the Board. There shall be two (2) alternate members also confirmed by the Board who shall act as substitutes in the event of the absence of a Committee member. If there are no committee members, the Executive Board shall act as the Committee. All Committee members shall serve staggered terms and shall be confirmed by a majority vote of the Board at the first regular Board meeting following the Annual Meeting. The terms of all Architecture Committee members shall be three (3) years commencing on the date of appointment, and continuing until his or her successor shall have been appointed or



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until resignation or removal of such member by the Executive Board. Any alternate member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Appointments to fill vacancies on the Committee, however caused, shall be promptly undertaken by the Chairperson and the Executive Board. Members who have resigned, been removed or whose terms have expired may be re-appointed: however, no person shall serve as a member of the Architectural Committee, either regular or alternate, for a period in excess of six (6) years in any ten-year period. Any member or alternate member of the Committee may at any time resign from the Committee, upon written notice delivered to the Executive Board.

The affirmative vote of a majority of the members of the Committee shall govern its actions and be the act of the Committee. The Committee may avail itself of other technical and professional advice and consultants as it deems appropriate. All expenses of the Committee shall be paid by the Association and shall constitute a Common Expense. The Committee, in its discretion, may require that the owner-applicant(s) reimburse the Association for the Committee's expenses incurred in the review and approval process. All members of the Committee are entitled to reimbursement for reasonable expenses necessarily incurred by them in the performance of their duties as members of the Committee.

Section 6.2 Duties. The Architecture Committee shall be responsible for the establishment and administration of architectural rules and design guidelines set forth in the Architectural Rules. The Architecture Committee may submit and propose amendments to the Architectural Rules from time to time provided that any such amendments be approved by the majority vote of the Association's Executive Board. The Committee shall maintain a record of all actions for a minimum of three (3) years.

Section 6.3. Submission of Plans and Procedures. Anyone wishing to build Improvements on their Lot shall submit plans, including preliminary plans, to the Committee in accordance with the procedures, guidelines, rules and regulations then in effect and as set forth in the Architectural Rules (which can be found on the Association Website).

Section 6.4 Non-Waiver. Approval by the Architecture Committee of any plans, drawings or specifications of work done or proposed, or for any other matter requiring the approval of the Architecture Committee under this Declaration, shall not constitute a waiver of the Committee's right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval on another Lot.

Section 6.5 Certification of Compliance. Within thirty (30) days of completion of Improvements or work performed upon a lot, the Architecture Committee shall execute an irrevocable certificate signed by any two of its members certifying, with respect to the Lot of said Owner, as of that date, based on the information provided within the plans approved by the Architecture Committee and, to the best of its knowledge, either (a) all Improvements made and other work done upon or within said Lot comply with the Architectural Rules, or (b) Improvements or work do not comply and consist of the following items (list). An Owner shall have the opportunity to correct any items not in compliance with the Architectural Rules and request additional review by the Architecture Committee and an update to the certificate. The purpose of the certification is not to review compliance with respect to applicable building codes and or

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architectural or building matters for which the Architecture Committee does not have expertise but to ensure that Owner has conducted work and made proposed Improvements in accordance with the plans as submitted and approved by the Architecture Committee. Any purchaser from the Owner, or from anyone deriving any interest in subject Lot through him, is entitled to rely on the certificate, such matters being conclusive as between the Association, and all Owners and such persons deriving any interest through them.

Section 6.6 Building Permit. An Owner must apply for a building permit from the La Plata County building department whenever County ordinances require an Owner obtain a permit. The building plans submitted to the County shall not in any way differ from the plans approved by the Architecture Committee. If the plans submitted to the County differ in any way from the plans approved by the Architecture Committee, all approvals of the Committee shall be deemed automatically revoked.

Section 6.7. Non-Liability. Neither the Association, the Executive Board, the Architecture Committee nor any architect, member, officer or agent thereof shall be liable in damages to any person submitting requests for approval or to any approval, or failure to approve or disapprove, in regard to any matter within its jurisdiction under this Declaration. Neither the Association, the Executive Board, nor the Architecture Committee shall bear any responsibility for ensuring structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements. Neither the Association, the Executive Board nor the Architectural Committee will make any investigation into title, ownership, easements, rights of way or other rights appurtenant to the property with respect to architectural requests and shall not be liable for any disputes relating to same. In all events the Architecture Committee (and /or the Executive Board if acting in such capacity) shall be defended and indemnified by the Association in any such suit or proceeding which may arise by reason of the Executive Board's or Committee's decision. The Association, however, shall not be obligated to indemnify each member of the Board or Committee to the extent any such member of the Board or Committee is adjudged to be liable for gross negligence or willful misconduct in the performance of his duty as a member of the Board or Committee.

## **ARTICLE VII INSURANCE**

Section 7.1 Coverage. To the extent reasonably available, and if appropriate, the Association shall obtain and maintain the following insurance coverage:

A. Property Insurance. Property and fire insurance that will cover the Common Elements and any personal property or improvements owned by the Association, for broad form covered causes of loss. The property insurance will be for an amount equal to 100% of the replacement value of the insured property and any Improvements or personal property of the Association.

B. Liability Insurance. The Association shall obtain and maintain commercial general liability insurance against claims and liabilities arising in connection with the ownership of the Common Elements, including Association Easements, and any other Association property in an

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amount to be determined by the Association, but in no event shall it be less than \$1,000,000 Per Occurrence and \$2,000,000 Annual Aggregate. The insurance shall cover all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements and the activities of the Association. The liability insurance shall cover the Association, the Executive Board, and Lot Owners and the agents, families, guests, tenants, and employees of the foregoing against any liability incident to the use of the Association property.

C. Insurance policies required by this Section shall provide that: (a) the insurer waives the right to subrogation under the policy against an Owner; (b) an act or omission of an Owner will not void the policy or be a condition of recovery under the policy; (c) if at the time of loss, there is other insurance in the name of an Owner which covers the same risk, the Association's policy provides primary insurance; (d) losses must be adjusted with the Association; (e) insurance proceeds shall be paid to the Association, or its designated Trustee, to be held in trust for each Owner; and (f) the insurer may not cancel or refuse to renew the policy until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the Association.

Section 7.2 Fidelity Insurance. A blanket fidelity bond may be provided at the option of the Association to protect against dishonest acts on the part of its officers, directors, trustees, and employees, and on the part of all others who handle or who are responsible for handling the funds belonging to or administered by the Association. In addition, if responsibility for handling funds is delegated to a Manager, such bond shall be obtained for the Manager and its officers, employees, and agents, as applicable. Such fidelity coverage shall name the Association as an obligee and shall be written in an amount not less than two month's current assessments plus reserves (calculated from the current budget) or such higher amount as determined by the Executive Board. Such bonds shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions.

Section 7.3 Liability Insurance of Officers, Directors and Committee Members. Personal liability insurance shall be maintained by the Association to protect the officers, directors and committee members, including members of the Architecture Committee from personal liability in relation to their duties and responsibilities in acting as such officers and directors on behalf of the Association.

Section 7.4 Other Insurance. The Association may obtain insurance against such other risks, including workman's compensation insurance, of a similar or dissimilar nature as it shall deem appropriate with respect to the Association's responsibilities and duties in such amounts and in such form as required by law.

Section 7.5 General Insurance Provisions. All insurance coverage obtained by the Association shall be governed by the following provisions:

A. The deductible amount, if any, on any insurance policy purchased by the Association may be treated as a Common Expense payable from Annual Assessments or Special Assessments; or alternatively, the Association may treat the expense as an assessment against an

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Owner whose Lot is specifically affected by the damage or whose negligence or willful act resulted in damage.

B. The insurance coverage described in this Article shall be considered minimum coverage and the Association shall be obligated to secure and maintain such other or additional coverage as may be required by law, including, without limitation, § 313 of the Act.

C. Except as otherwise provided by the Association pursuant to this Article, insurance premiums shall be a Common Expense to be paid by Assessments levied by the Association.

D. The named insured under any such policies shall include the Association, as a trustee for the Owners and their Mortgagees, as their interests may appear, or the authorized representative of the Association who shall have exclusive authority to negotiate losses and receive payments under such policies.

E. In no event shall the insurance coverage obtained and maintained pursuant to this Article be brought into contribution with insurance purchased by the Owners or their Mortgagees.

## **ARTICLE VIII ASSESSMENTS FOR COMMON EXPENSES**

Section 8.1 **Obligation.** Each Owner, by accepting a deed for a Lot, is deemed by covenant to pay to the Association: (i) the Annual Assessments imposed by the Executive Board as necessary to meet the Common Expenses of maintenance and management of the Common Elements and to perform the functions of the Association; (ii) Special Assessments for capital improvements and other purposes as stated in this Declaration, if permitted by law; and (iii) Default Assessments which may be assessed against a Lot for the Owner's failure to perform an obligation under the Association Documents or because the Association has incurred an expense on behalf of the Owner under the Association Documents.

Section 8.2 **Purpose of Assessments.** The Assessments shall be used exclusively to promote the health, safety, and welfare of the Owners and occupants of the Common Interest Community, and for the improvement and maintenance of the Common Elements, all as more fully set forth in this Declaration.

Section 8.3 **Budget.** At a regular meeting of the Executive Board or at a special meeting called for such purpose, the Executive Board shall approve a budget of the projected revenues, expenditures and reserves for the Association's next fiscal year. A summary of the proposed budget approved by the Executive Board shall be mailed or emailed to the Owners within thirty (30) days after its adoption along with a notice of a meeting of the Association to be held within a reasonable time after the delivery of the summary of the proposed budget to the Owners and may, if convenient, be the annual meeting date. Unless 75% of the eligible votes allocated to all Owners reject the proposed budget, the budget is deemed ratified. There are no quorum requirements for this meeting. In the event the proposed budget is rejected, the budget last ratified by the Owners continues until such time as the Owners ratify a subsequent budget proposed by the Executive Board as provided above. If the Executive Board deems it necessary or advisable to amend an

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annual budget that has been ratified, the Executive Board may adopt a proposed amendment to the annual budget, deliver a summary of the proposed amendment to all Owners and set a date for a meeting of the Owners to consider ratification of the proposed amendment. The date of such meeting shall be within a reasonable time after the delivery of the summary of the proposed amendment. Unless at that meeting 75% of the eligible votes allocated to all Owners, whether or not a quorum is present, rejects the proposed amendment, the proposed amendment shall be deemed ratified.

Section 8.4 Annual Assessments. Annual Assessments for Common Expenses shall be based upon the estimated cash requirements as the Executive Board shall from time to time determine to be paid by all of the Owners, subject to this Article. By way of example, estimated Common Expenses shall include, but shall not be limited to, the cost of routine maintenance of the Common Elements, including, but not limited to, road maintenance and snow plowing of the Roads; maintenance for mailboxes and entrance and road signs, spraying and removal of noxious weeds; expenses for trash haul-out; expenses for irrigation maintenance, expenses of management; any taxes and special governmental assessments pertaining to the Common Elements and insurance premiums for insurance coverage as deemed desirable or necessary by the Association; wages; legal and accounting fees; management fees; expenses and liabilities incurred by the Association under or by reason of this Declaration; payment of any default remaining from a previous assessment period; maintenance of any debt obligation; and the creation of a reasonable contingency or other reserve or surplus fund for general, and routine maintenance of the Common Elements on a periodic basis, as needed. Annual Assessments shall be payable on a prorated basis each year in advance as the Executive Board may determine. The omission or failure of the Association to fix the Annual Assessments for any assessment period shall not be deemed a waiver, modification, or release of the Owners from their obligation to pay the same.

Section 8.5 Apportionment of Annual Assessments. Each Owner shall be responsible for his share of the Common Expenses in accordance with the Allocated Interests, subject to the provisions of this Article.

Section 8.6 Special Assessments.

A. In addition to the Annual Assessments authorized by this Article, the Association may levy in any fiscal year one or more Special Assessments, if permitted by applicable law, payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of improvements within the Common Elements, or for any other expense incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Association to incur expense, but shall be construed to prescribe the manner of assessing expenses authorized by other sections of this Declaration and in acting under this Section, the Association shall make specific references to this Section. Any amounts assessed pursuant to this Section shall be assessed to Owners in the same proportion as provided for Annual Assessments, and any extraordinary insurance costs incurred as a result of the value of a particular Owner's residence or the action of a particular Owner (or his agents, servants, guests, tenants, or invitees) shall be borne by that Owner. Notice in writing in the amount of such Special Assessments and the time for payment of the Special Assessments shall be given promptly to the

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Owners after any requisite Owner approval for the Special Assessment has been obtained. Special Assessments shall be due no less than 30 days after the notice shall have been given.

B. Notwithstanding the foregoing, no Special Assessment shall be levied without the approval of fifty-one percent (51%) of all of the Lot Owners within the Association who are eligible to vote in the event that the aggregate amount of all additional assessment levied for any fiscal years exceeds 25% of the regular assessments for that year.

C. As an alternative to levying a Special Assessment, the Executive Board, in its discretion, may utilize Reserve Funds if during the fiscal year, the annual assessment provides inadequate capital for any reason (a "Deficiency") including nonpayment of any Owner's share of assessments. In addition, or in the alternative, the Board may authorize a short-term (less than one-year) emergency loan from the Reserve Fund to fund such deficiency, which loan should bear interest at current rates and be fully reimbursed to the Reserve Fund in the following fiscal year. The amount of money to be used to fund the deficiency would be determined by the Executive Board and should not come from monies already allocated for specific major capital, repair and replacement projects.

Section 8.7 Default Assessments. All monetary fines assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents (such as unpaid assessments), shall be a Default Assessment and shall become a lien against such Owner's Lot which may be foreclosed or otherwise collected as provided in this Declaration.

Section 8.8 Effect of Nonpayment; Assessment Lien. Any assessment installment, whether pertaining to any Annual, Special, or Default Assessment, which is not paid within 30 days of its due date shall be delinquent. The procedure for Collection of Assessments shall be as set forth in the Governance Policy for Collections. In addition to the rights set forth in the Governance Policy, the Association may file a statement of lien on a delinquent Assessment with respect to the Lot and proceed with foreclosure. Assessments chargeable to any Lot shall constitute a continuing lien on such Lot, including any improvement on the Lot. To evidence the lien created under this Section, the Association may, but is not required to, prepare a written notice setting forth (i) the address of the Association, (ii) the amount of such unpaid indebtedness, (iii) the amount of accrued penalty on the indebtedness, (iv) the name of the Owner of the Lot, and (v) a description of the Lot. The notice shall be signed and acknowledged by the President or Vice President of the Association, the Association's attorney, or by the Manager, and the Association shall serve written notice upon the Owner to the address of the Lot or to such other address as the Association may have in its files for such Owner. At least ten days after the Association mails the Owner such a notice, the Association may record the notice in the office of the Clerk and Recorder of La Plata County, Colorado. Such lien for Assessments shall attach from the due date of the Assessment. According the Governance Policy on Collections, the Association may institute foreclosure proceedings against the defaulting Owner's Lot in the manner for foreclosing a mortgage on real property under Colorado law. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien,

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and all reasonable attorneys' fees incurred in connection with the enforcement of the lien. The Association shall have the power to bid on the Lot at a foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. The Association shall be entitled to costs and reasonable attorney fees in any action brought by the Association under this Section.

Section 8.9 Personal Obligation. The amount of any Assessment chargeable against any Lot shall be a personal and individual debt of the Owner of the Lot. No Owner may exempt himself from liability for the Assessment by abandonment of his Lot or by waiver of the use or enjoyment of all or part of the Common Elements. Suit to recover a money judgment for unpaid Assessments, any penalties and interest, thereon, the cost and expenses of such proceedings, and all reasonable attorneys' fees in connection therewith shall be maintainable without foreclosing or waiving the Assessment lien provided in this Declaration.

Section 8.10 Successor's Liability for Assessment. In addition to the personal obligation of each Owner to pay all Assessments and the Association's perpetual lien for such Assessments, all successors to the fee simple title of a Lot, except as provided below, shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees against such Lot without prejudice to such successor's right to recover from any prior Owner any amounts paid by such successor. This liability of a successor shall be personal, and shall not terminate upon termination of such successor's fee simple interest in the Lot. In addition, such successor shall be entitled to rely on the Statement of Status of Assessment Payment by or on behalf of the Association under this Article.

Section 8.11 Subordination of Lien. The lien of the Assessments provided for in this Declaration shall be subordinate to (i) the lien of real estate taxes and special governmental assessments, (ii) liens and encumbrances recorded prior to the recordation of the Declaration, and (iii) liens for all sums unpaid for a first lien security interest on a Lot recorded before the date on which the assessment sought to be enforced became delinquent, subject to the priority granted to the Association's lien under the Act. The lien of the Assessments shall be superior to and prior to any Lot exemption provided now or in the future by the laws of the State of Colorado. An Owner's transfer of any Lot shall not affect the Association's lien except that sale or transfer of any Lot pursuant to foreclosure of any first mortgage, or any proceeding in lieu thereof, or cancellation or forfeiture shall only extinguish the Association's liens as provided in the Act. The amount of such extinguished lien may be reallocated and assessed to all Lots as a Common Expense at the direction of the Executive Board. No sale or transfer shall relieve the purchaser or transferee of a Lot from liability for, or the Lot from the lien of, any Assessments made after the sale or transfer.

Section 8.12 Notice to Mortgagees. The Association may report to any Mortgagee any unpaid Assessments remaining unpaid for longer than 60 days after the same shall have become due, if such Mortgagee first shall have furnished to the Association written notice of the Mortgage and a request for notice of unpaid Assessments. Any Mortgagee holding a lien on a Lot may pay any unpaid Assessment payable with respect to such Lot, together with any and all costs and expenses incurred with respect to the lien, and upon such payment that Mortgagee shall have a lien on the Lot for the amounts paid with the same priority as the lien of the Mortgage.

## **ARTICLE IX LAND USE RESTRICTIONS**

The Property shall be held, used, and enjoyed subject to the following limitations and restrictions which shall apply to Owners and their tenants, guests, family and invitees. Owners and their tenants, guests, family and invitees shall be collectively referred to herein as "Occupants."

Section 9.1 Single Family Areas; Permitted Uses and Restrictions. All Lots are subject to all of the following limitations and restrictions; violations may result in actions and/or fines by the Association.

A. Land Use. No Lot may be used other than for single-family residential purposes and other purposes expressly authorized herein. No retail, wholesale, manufacturing, service or repair businesses shall be permitted on any building site or in any dwelling or related structure erected thereon or on any Common Area. A prohibited "service" business is NOT intended to include a business run out of a home office which is operated by a single proprietor, has no other employees, involves only occasional visits by third parties, and the operation of which does not result in a nuisance or excessive traffic under this Declaration or any related documents.

B. Ownership of Lots. At no time, will an individual or group of related individuals, or any one or more corporations, trusts or other legal entities owned by or under Common control of an individual or group of related individuals be allowed to own more than two (2) Lots.

C. Setback Requirements.

1. For all lots in The Ranch, with the exception of the properties defined below, there shall be a minimum side setback requirement of five (5) feet, and a twenty-five (25) foot street setback measured from the foundation of a building closest to the relevant property line to that property line, except garages which can be no closer than fifteen (15) feet from the property line bordering the right of way of any street. Lots consisting of the Additional Property must have a minimum side setback requirement of ten (10) feet and a twenty-five (25) foot street setback measured from any portion of a building, excepting garages which can be no closer than fifteen (15) feet from a street right of way.
2. Residential structures on Ranchette lots 7, 8, 9, and 10 are to be located *between* the street property line and the rear berm.
3. Common ground: There is no setback limit against the common ground except where recorded easements apply. No permanent structures or encroachments will be permitted on such easements in the common ground. Traditionally, this rule has been interpreted to mean that an improvement on private property adjacent to the common ground may be built up to the property line.

D. Driveways. All driveways from any street to a resident's home are to be constructed of permanent hard-surfaced materials (asphalt, concrete, etc.). The driveway material and design are to have prior approval by the Architecture Committee.



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E. Hunting; Use of Weapons. There shall be no hunting or trapping of animals of any kind and the use of any weapons such as firearms, archery equipment, pellet guns, “BB” guns, slingshots or any other mechanism or apparatus that launches a projectile is specifically prohibited except as hereinafter provided. The Executive Board may from time to time authorize the use of a weapon within The Ranch to control or eliminate pests. Such authorization shall include the designation of one or more persons who may use a weapon, the specific purpose of such use and limitations with respect to time period and the type of weapon that may be used.

F. Animals. No animals other than a reasonable number of generally recognized house or yard pets shall be maintained on any Lot, and then only if they are kept, bred or raised thereon solely as household pets for private use. No such animal may be kept which makes an unreasonable amount of noise or otherwise becomes a Nuisance to other Owners. Dogs that go outside the boundaries of their Owner’s property must be on a leash and under firm control of the Owner. Pet Owners are responsible at all times for their pets and the immediate removal of pet waste from other Owner’s property and Common Area. Upon request of any Owner, the Board shall within thirty (30) days determine, in its sole discretion, whether for purposes of this paragraph, a particular animal shall be considered a house or yard pet, a Nuisance, or whether the number of said animals on any Lot is reasonable. The Architecture Committee must approve the location of any structure used to house animals. No more than two (2) horses or equivalent livestock shall be permitted on Ranchettes (Lot Nos. 7, 8, 9, and 10). Animals (except swine) and poultry may be maintained on Ranchettes provided the pens, corrals, barns, sheds, or other enclosures are maintained in a clean, orderly, and sanitary condition.

G. Utility and Telecom Service. All facilities for permanent utility service to any improvement (except ground mounted pedestal boxes for the communication or transmission of electric power, including telephone, television and radio signals) shall be constructed, placed or maintained in conduits or cables constructed, placed and maintained underground or concealed in, under or on buildings or other structures, all in accordance with all governmental regulations. Nothing herein shall be deemed to forbid the erection and use of temporary power or telecommunication services incident to the construction of approved buildings.

H. Improvements and Alterations. Owners will not commence construction or installation of improvements, excavation, or conduct any work which alters the exterior appearance of any Lot or Common ground Area until they have submitted plans and received written approval from the Architecture Committee as required by Article VI and the Architectural Rules. For clarification, this restriction includes not only improvements and modifications to residences but also modifications and improvements to landscaping, drainage and sprinkler systems. Any change or deviation from approved plans either during or after completion of construction that alters the exterior appearance of a Lot or improvements thereon must have the separate prior written approval of the Architectural Committee. Subsequent transfers of Lots from one Owner to another Owner do not provide relief from the provisions of the Architectural Rules.

I. Temporary Occupancy. No recreational vehicles, trailers, tent, shack, garage or barn, and no temporary building or structure of any kind shall be used at any time for a residence, either temporary or permanent. Temporary storage, office or work structures used during the construction of a dwelling shall be removed immediately after the completion of construction.

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J. Landscape, Plantings, Lawns and Their Maintenance. Each Owner shall grade, landscape and plant his Lot in accordance with the Architectural Rules.

K. Nuisances. No trash, rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot. No offensive odors shall be permitted to arise from a Lot, and no other nuisance activity shall be carried on or permitted to exist which is unsanitary, offensive, or detrimental to other Lot Owners within the community. Excessive noise emanating from a Lot shall be considered a "Nuisance activity". Without limiting any of the foregoing, no exterior speakers, horns, whistles, bells, except security devices used exclusively for security purposes, shall be located, used or placed on any Lot. The Architecture Committee must approve yard lighting. The Executive Board shall make the final determination, in a consistent and impartial manner, whether a condition or activity constitutes a nuisance under this Section K.

L. Repair of Buildings. No building or structure upon any Lot shall be permitted to fall into disrepair, and every building or structure shall at all times be kept in good condition and repair and adequately stained, painted or otherwise finished.

M. Trash Containers and Collection. All garbage, rubbish and trash shall be placed and kept in covered containers consistent with current La Plata County regulations. In no event shall such containers be maintained where visible from neighboring property except to make the same available for collection. La Plata County ordinance requires that all trash containers be placed out and removed on the day of pick up. Trash cans cannot be left out overnight. Use of containers shall comply at all times with applicable government regulations.

N. Clothes Lines. Outside retractable clotheslines or other movable outside clothes drying or airing facilities shall be permitted where not conspicuous from neighboring property.

O. Firewood Storage and Safety. Occupants are strongly encouraged to store firewood inside their garage. Outdoor storage shall be neatly stacked and kept as inconspicuous as possible. During periods of heightened fire danger, as determined by government authorities, firewood and other highly flammable materials must not be placed next to any structure on the exterior of the dwelling. All other applicable governmental rules regarding open fires, barbecues, and gas-powered tools must be observed. No private or commercial vehicles will be permitted to park on any uncultivated part of the Common Elements.

P. Parking.

1. Private Vehicles. All Lots shall have a garage for the off-street parking of all vehicles kept or used by the Occupants. Any vehicle kept or used by the Occupants on a Lot must be of a length, width and height so that it shall fit into a single space in the Lot garage. Every effort shall be made to keep vehicles parked in the garage when not in use. The exception is an emergency vehicle, weighing less than 10,000 lbs., and bearing an official emblem, that is operated as a condition of employment by an Occupant who is an emergency service provider. Such an emergency vehicle may be parked on The Ranch streets, the Lot driveway, or any guest parking spaces. Guests shall use off-street parking when provided, but guests may park on the street if no parking spaces are available. Occupants of any Lot

are prohibited from using guest parking spaces for the regular parking of any vehicles kept or used by the Occupant. Outside service and construction personnel are allowed to park adjacent to the job site but only during normal work hours as defined by the Architecture Committee. In no event shall any vehicle be parked in a manner, which impedes the safe and efficient use of the streets for emergency personnel or obstructs access or interferes with the reasonable needs of the other Occupants to use the Ranch community's streets and driveways. Parking on landscaped Common Elements, including graveled shoulders, is prohibited.

2. Recreational Vehicles, Trailers, Boats, Snowmobiles, Etc. All recreational vehicles, trailers, boats, snowmobiles and the like shall be kept in the storage area provided at the southern perimeter of The Ranch when not in use. Refer to the Supplemental Ranch Rules for the RV Lot Rules. For the purposes of loading, unloading, and minor maintenance, the aforementioned vehicles may be parked near to the Occupant's garage subject to the above parking restrictions for the shortest possible time under a maximum of three days. Habitation of any such vehicle is prohibited without specific written approval of the Executive Board. Motorized off-road bikes (commonly known as "dirt bikes"), go-carts, ATV's, snowmobiles and similar vehicles are not permitted on roadways or Common Elements of The Ranch. The Executive Board shall resolve all question or disputes concerning definition or classification of such vehicles and units.

Q. Lakes. Boating, rafting, canoeing, swimming, wading, ice-skating and ice fishing are not permitted on or within the streams, ponds and lakes of The Ranch.

R. Mineral Exploration. No Lot shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance or other mineral of any kind.

S. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a private residence or related structures in The Ranch.

T. Fences. The Architecture Committee shall review and must approve the design and materials of all fences before construction may begin. The following restrictions shall not apply to the use of fencing type materials on a temporary basis to protect trees, shrubs, and property from wildlife so long as such fencing is neither highly visible nor of an objectionable color.

1. Above-ground fences shall be permitted only on those Lots located on the perimeters of The Ranch as identified in Exhibit C attached hereto and incorporated herein. Fences shall not be permitted on townhouse Lots or on properties situated in the interior of The Ranch. *Above-ground fences* shall not be greater than five (5) feet in height, shall be made of wood, and shall provide an open and see-through appearance. Above-ground electric fences are permitted on the Ranchette Lots 7, 8, 9, and 10 to retain large animals.

2. No fences, including plantings such as hedges or trees which would be in the nature of

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a fence, shall be placed between the street and the front of the house.

3. Underground electronic pet fences shall be permitted on any Lot.

U. Tanks/Rain barrels. No tanks of any kind shall be erected placed or permitted upon any Lot except that rain barrels are permitted so long as approved by the Architecture Committee.

V. Foot Path. No motor driven vehicles shall be permitted on paths.

W. Restrictions on Further Subdivision. No Lot shall be further subdivided or split into other parcels. Nothing herein contained shall prevent the dedication or conveyance of portions of Lots for additional easements for public utilities. Nothing herein contained shall apply to re-subdividing Lots for purposes of adjusting Lot lines if all parties agree.

X. Signs. No signs which are VISIBLE FROM NEIGHBORING PROPERTY shall be erected or maintained on any Lot except:

1. Such signs as may be required by legal proceedings;
2. During the time of construction of any residence or other improvement, only one job identification sign not larger than eighteen by twenty-four inches in height and width and having a face area not larger than three square feet;
3. Not more than one "For Sale", "For Rent" or "Beware of Animal" sign having a maximum face area of three feet squared;
4. Political Signs placed by an Occupant on their Lot within 45 days before Election Day, on Election Day and no more than 7 days after Election Day. No more than one sign may be displayed per ballot issue and no more than one sign may be displayed per political office candidate. No sign may exceed 36" by 48" and signs may only be displayed within five feet of the residence, or in a window;
5. If the Association is providing signs, other than Political Signs, for the use of Owners, then the sign provided by the Association must be used. The Board may cause any unauthorized sign remaining on any Lot more than twenty-four hours after notice to the Owner to be removed without liability for trespass or other damages caused in its removal.

Y. Flags. Residents are permitted to display an American flag or Colorado State flag on their property so long as such flag is:

1. No larger than 3 feet by 5 feet in size;
2. Displayed on either a conventional wall mounted standard, a permanent vertical flagpole no greater than 15 feet in height and commensurate in diameter with the stated maximum flag size or vertically against an outside wall;
3. At all times the display must be in conformance with the Federal Flag Code, U.S.C. 4 to 10;
4. The Architecture Committee has approved the design and location of permanent flagpoles. Location of flagpoles will generally be set to ensure reasonable visibility without adversely affecting neighbors;
5. Military or service flags of the Resident's immediate family may be displayed on the inside

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of a window or door of the residence. These flags are limited to a size of 9" by 16".

Z. Garages. Every single-family residence shall have a garage of sufficient size to house at least two automobiles. No carports are allowed. No garage shall be converted to residential living space or any other use except uses normally associated with a garage, such as storage of vehicles, boats, campers, workbench activities, etc. Garage doors shall be kept closed except when outside household activities requiring frequent access through such doors are being conducted.

AA. Right of Entry. Upon 48 hours written notice to both an Occupant and the Owner, during the daylight hours of any day of the week except Sunday, any member of the Board or of the Architecture or Irrigation Committees shall have the right to enter upon and inspect any site, Lot or parcel and the exterior of any building or other Improvements thereon for the purpose of ascertaining whether the provisions of the Declaration have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry..

BB. Wildlife Area – The Commend Element shown in the Ranch documents as the Ranch Common Ground Wildlife Area is to be left in its natural state for the enjoyment of all residents. No improvements shall be made to this area, except for the RV facility or those strictly required for safety.

CC. Limited Use of Common Elements.

1. The Board through its Maintenance Committee shall have the right at any time to plant, replace, maintain and cultivate, at Association expense, trees or shrubs in the Common Area. No Owner shall remove, alter, injure or interfere in any way with any tree or shrub in such area unless it is to clear vegetation following review and approval by the Maintenance Committee.
2. No Owner shall plant any grasses, flowers, shrubs or trees in the Common Area without approval by the Maintenance Committee.
3. Common greenspace immediately adjacent to a Lot may be modified with the prior written approval of both the Architecture and Maintenance Committees. Any request by Owners to make a structural modification or otherwise improve Common greenspace must take into account those principles that apply to the original purpose for such greenspace: the views enjoyed by neighbors must be preserved; any underground system cannot be adversely affected; roadways cannot be impacted; ponds or waterways cannot be screened by vegetation nor altered to affect the flow of water or the operation of irrigation equipment by material or vegetation; and access for the Common ground maintenance must be maintained. In line with these principles, any approval shall be subject to the execution by the Owner of a written agreement assuming responsibility for the installation, maintenance and upkeep of the specific modification or usage and the assumption of liability for any consequences of such modification or usage. These agreements shall be recorded with the County Clerk of La Plata County, Colorado and be binding upon the Owner's successors in interest.

DD. Yard Sales. Only one garage or yard sale will be allowed, per year, on The Ranch and shall be held on a Saturday in June on such date as determined by the Executive Board. The

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Executive Board shall publish the rules governing these sales each year prior to the event. Individual estate sales can be authorized by the Executive Board in the event of a home sale or death in the family.

## **ARTICLE X LEASING**

Section 10. Leasing or renting of a residence shall be permitted in accordance with the restrictions and conditions of this Article X and the Bylaws, Articles and Rules and Regulations of the Association, including any specific rules and regulations adopted by the Executive Board. Violations (by Owners or Occupants of Lots) of this Declaration or any provision of the Governing Documents may subject Owners to fines or other remedies available under law.

A. Any residence that is leased shall be leased only in its entirety; separate rooms, floors, or other areas within a residence may not be separately leased unless the residence is owner-occupied or the partial lease is to a caretaker in the Owner's temporary absence.

B. All leases shall have a minimum initial term of at least 30 days. No Lot may be sub-leased and no lease may be assigned during such minimum initial term. In the event of termination of a lease after the tenant has taken occupancy and prior to the end of such minimum initial term, the Owner may not enter into a new lease with a term commencing prior to the date on which the previous lease would have expired without prior approval of the Board, which shall not be granted unless the Board determines, after consideration of the facts and circumstances, that the Owner acted in good faith, with no intent to circumvent the requirements of this subsection and could not reasonably have anticipated the early termination of the previous lease at the time the lease was signed.

C. Vacation and short-term rentals are permitted so long as in compliance with the 30-day restriction set forth above and so long as said vacation and short-term rentals comply with any applicable municipal and governmental ordinances or regulations pertaining to vacation rentals.

D. All leases shall be in writing and shall disclose that the tenants and all occupants of the leased Lot are bound by and obligated to comply with the Association Documents. Notwithstanding the foregoing, the Association Documents shall apply regardless of whether such a provision is specifically set forth in the lease. The Owner must provide the tenant copies of the Association Documents.

E. Within 10 days of a lease being signed, the Owner of the leased Lot shall notify the Association's Secretary of the lease arrangement and the Owner shall provide the name, address, phone number, vehicle description and license plate numbers, and any additional information about the lessee the Board may reasonably require.

F. If requested in writing by the Executive Board, the Owner, or the Owner's agent, may be required to provide an affidavit that a satisfactory background check was performed on the prospective occupants prior to the execution of the lease or rental agreement.

## **ARTICLE XI CONDEMNATION**

Section 11.1 Rights of Owners. Whenever all or any part of the Common Elements or anything which constitutes Association property shall be taken by any authority having power of condemnation or eminent domain or whenever all or any part of the Common Elements is conveyed in lieu of a taking under thereof of condemnation by the Executive Board acting as attorney-in-fact for all Owners under instructions from any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice of the taking or conveying. The Association shall act as attorney-in-fact for all Owners in the proceeding incident to the condemnation proceeding, unless otherwise prohibited by law.

Section 11.2 Partial Condemnation, Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Association as trustee for the Owners, and the award shall be disbursed in equal shares per Lot among the Owners, first to the Mortgagees, if any, and then to the Owners, according to the Allocated Interests formula described in Section 12.2 below.

Section 11.3 Complete Condemnation. If all of the Common Interest Community is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration shall terminate, and the portion of the condemnation award attributable to the Common Elements shall be distributed as provided in Section 11.2 above.

## **ARTICLE XII ALLOCATED INTERESTS**

Section 12.1 Allocation of Interests. Allocated interests means each Owner's share of the Common Expenses, and votes in the Association allocated to each Lot. Interests have been allocated in accordance with the formulas set out in this Article. The same formulas are to be used in reallocating interests if Lots are added to the Common Interest Community.

Section 12.2 Formula for Allocation of Interests. The formula for calculating the Allocated Interest of a single Lot is based on a fraction: the numerator of which is one (1) and the denominator of which is the total number of Lots in The Ranch. (The total number of Lots at the time of recordation of this Declaration is 107; hence, the Allocated Interest for each Lot is 1/107) Nothing contained in this Section shall prohibit certain Common Expenses from being apportioned to particular Lots under any other Article of this Declaration. In the event the total number of Lots within the Association is increased or decreased, there shall be an automatic corresponding change in the Allocation of Interests.

Section 12.3 Voting Rights. Each Owner shall be allocated one vote for every Lot.

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**ARTICLE XIII  
DURATION OF COVENANTS AND AMENDMENT**

Section 13.1 Term. The covenants, conditions, easements, and restrictions of this Declaration shall run with and bind the Property in perpetuity, subject to the termination provisions of the Act.

Section 13.2 Amendment. This Declaration, or any provision of it, may be amended at any time by an instrument approved by Owners holding no less than 2/3rds of the votes of Owners of Lots. Any Amendment must be executed by the President of the Association, and approval of such amendment may be shown by attaching a certificate of the Secretary of the Association to the recorded instrument certifying that signatures of a sufficient number of Owners approving the amendment are on file in the office of the Association. All amendments must be recorded in the real property records of the La Plata County clerk and recorder. The procedure for amendment must follow § 217 of the Act.

Section 13.3 Termination. This Declaration shall not be revoked, nor shall the Common Interest Community be terminated, except as provided in Article XI regarding total condemnation, without the consent of 67% of the Owners evidenced by a written instrument duly recorded. Termination of the Common Interest Community may be accomplished only in accordance with § 218 of the ACT.

Section 13.4 Limitation of Challenges. An action to challenge the validity of an amendment adopted by the Association pursuant to this Article may not be brought more than one year after the amendment is recorded.

**ARTICLE XIV  
EASEMENTS AND COMMON AREA**

Section 14.1 Existing Easements. The Common Interest Community shall be subject to all easements shown on the Plats, including all utility and access easements, those easements of record in the real property records of La Plata County, and those easements provided for in the Act, and as otherwise set forth in this Article.

Section 14.2 Owner's Easement Across Roads. Every Owner shall have an easement across the Roads within The Ranch, which easements shall be appurtenant to and shall pass with the title to every Lot. Roads are in the locations designated on the Plat and are for the purpose of vehicular, pedestrian and equestrian ingress and egress.

Section 14.3 Owners' Easement of Enjoyment. Every Owner shall have a right and easement of access and enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with title to every Lot, subject to the terms and conditions of the Governing Documents, including any rules and regulations pertaining to the use of recreational facilities situated upon the Common Area.

Section 14.4. Conveyances And Encumbrances. The Association shall have the right to



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dedicate, transfer, encumber or convey all or any part of the Common Area only upon vote of persons entitled to cast at least 67% of the votes in the Association. By execution of this Declaration, Owners ratify and consent to the Executive Board's lease of the parcel of land identified as the Sewer Site on The Ranch, Phase 1, Plat recorded as Reception No. 418481 and to any future modification or termination of the lease, encumbrance or conveyance of said Sewer Site provided such action is determined to be of benefit to the Association by the Executive Board.

#### **ARTICLE XV IRRIGATION WATER**

Irrigation water within The Ranch is provided by the Animas Consolidated Ditch Company. The Association holds Certificate No. 1732 for 28 shares of Class A water to be delivered between April and November of each year, weather permitting. Permitted uses of Association irrigation water include irrigation, piscatorial, maintenance of stock, storage in aesthetic ponds, domestic and recreation. The Maintenance Committee and the Executive Board determine the allocations and delivery of water to the Lots. Owners may not fence or construct Improvements across the irrigation ditch or irrigation lines. All irrigation facilities located outside or along a Lot of the Association and the maintenance of irrigation facilities constitutes a Common Expense of the Association. Notwithstanding the foregoing, Owners are responsible for maintaining and repairing individual sprinkler systems that are located within their Lot boundaries.

#### **ARTICLE XVI ADDITIONAL PROPERTY**

Section 16.1 Additional Property. The inclusion of Additional Property within the Ranch common interest community requires the approval of the Executive Board. Provided that all of the Additional Property Conditions of Exhibit B have been met, the Executive Board is authorized to execute and record a Supplemental Declaration in the real property records of La Plata County, Colorado. The Supplemental Declaration will modify Exhibit A to include the Additional Lands and will modify the Number of Lots in Section 2.5 and the Allocation of Interests so as to reflect the inclusion of the new Lots. The Supplemental Declaration, as described in this Section 16.1, will not require an Owner vote prior to its execution and recordation.

#### **ARTICLE XVII SALE OF LOT OR UNIT**

The Seller of any property must provide any Association documents required by the real estate provisions of Colorado Revised Statutes to a Buyer at least 10 days before closing. Upon Buyer's request, the Seller must provide copies of the current forms of the Governing Documents, current operating budget and latest Annual Financial Report to the Buyer. The Association, upon written request of the Seller, must produce these. The Association can charge a reasonable fee. The seller must also provide the buyer with the disclosure statement as provided in Exhibit D stating that the buyer understands his or her responsibilities as members of the association. The signed agreement must be delivered to the secretary of the association prior to closing.

**ARTICLE XVIII**  
**GENERAL PROVISIONS**

Section 18.1 Enforcement. Except as otherwise provided in this Declaration, the Executive Board, or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of the Declaration. Failure by the Executive Board of the Association, or by any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter. All reasonable attorney's fees and costs incurred by the Association in a suit to enforce the terms hereof shall, if the Association prevails in such action, be recoverable from the losing party.

Section 18.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 18.3 Conflicts. In case of conflict between this Declaration and the Articles and the Bylaws of the Association, this Declaration shall control. In case of conflict between the Articles and Bylaws, the Articles shall control. In the case of a conflict or inconsistency between the provisions of this Declaration and the design review criteria, the provisions of this Declaration shall control and the design review criteria shall be automatically amended to the extent necessary to conform the conflicting provision therein with the provisions of this Declaration. The Association Documents are intended to comply with the requirement of the Act. If there is any conflict between the Association Documents and the provisions of the Act, the provisions of the Act shall control.

Section 18.4 Captions. The captions contained in the Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Documents or the intent of any provision thereof.

Section 18.5 Gender. The use of the masculine gender refers to the feminine gender, and vice versa, and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so requires.

Approved by the Board of Directors September 20, 2021  
Pending approval of 2/3 of the Owners

(Signature Pages for Declaration)

IN WITNESS WHEREOF, this Second Amended and Restated Declaration for The Ranch has been executed and acknowledged by the undersigned on this \_\_\_ day of \_\_\_\_\_, \_\_\_\_.

The Ranch Property Owners Association, Inc.

\_\_\_\_\_  
By:  
Its: President

STATE OF COLORADO)

COUNTY OF LA PLATA)

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20 \_\_, by \_\_\_\_\_, President of The Ranch Property Owners Association, Inc.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Approved by the Board of Directors September 20, 2021  
Pending approval of 2/3 of the Owners

The undersigned Secretary of The Ranch Property Owners Association, Inc. certifies that the Association obtained the requisite number of approvals from Owners necessary for the amendment and adoption of this Second Amended and Restated Declaration.

The Ranch Property Owners Association, Inc.

\_\_\_\_\_  
By:  
Its: Secretary

STATE OF COLORADO)

COUNTY OF LA PLATA)

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by \_\_\_\_\_, President of The Ranch Property Owners Association, Inc.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**EXHIBIT A.**  
**LEGAL DESCRIPTION OF PROPERTY**

1. The Ranch, Phase 1, Final Plat, Reception No. 418481, March 31, 1978.
2. Phase 2-B, Amended Plat 4, Project No. 86-194, Reception No. 550796, July 22, 1987.
3. Phase II-C1-1, Project No. 87-47, Reception No. 565837, July 28, 1988.
4. Phase II-C-2, Project 89-39, Reception No. 579125, June 13, 1989
5. Re-subdivision of Phase II-C1-2, Project 89-82, Reception No. 585807, November 13, 1989.
6. The Ranch P.U.D Amended Subdivision Plat/Boundary Adjustment, Project No. 92-11, Reception No. 624677, March 25, 1992 including that property re-designated from "Proposed Phase II" to "Common Area" more particularly described as:
  - Beginning at the Southwest corner of Phase II-D2A, Final Plat, Project No. 97-46, Reception No. 727411, June 5, 1997;
  - Thence South 72°47'29" East, 637.11 ft;
  - Thence South 70°21'35" West, 761.88 ft;
  - Thence North 89°26'00" West, 293.66 ft.;
  - Thence North 01°00'00" West, 236.06 ft.;
  - Thence North 89°00'00" East, 146.82 ft.;
  - Thence along the arc of a tangent curve to the left with a delta angle of 74°00'00" and a radius of 274.04 ft. for a distance of 353.93 ft., the long chord bears North 52°00'00" East, 329.84 ft. to the point of Beginning.
7. Amended Phase II-D1, Amended Plat, Project No. 94-32, Reception No. 680648, December 29, 1994
8. Phase II-D2A, Final Plat, Project No. 97-46, Reception No. 727411, June 5, 1997.
9. Phase II-D2B, Preliminary Plat, Project No.2000-97, County of La Plata, State of Colorado, according to the recorded plat thereof filed for record Sept 8, 2000 under Reception No. 792483.
10. TRACT I: All that part of the SW 1/4NW1/4 of Section 2, Township 36 North, Range 9 West, N.M.P.M., County of La Plata, State of Colorado, lying and being Southerly of U.S. Highway 550, Westerly of the Ranch, Phase I, according to the recorded plat thereof filed for record March 31, 1978 under Reception No. 418481, and Northerly of the Ranch, Phase 2-B, Amended Plat 1, according to the recorded plat thereof filed for record on March 28, 1984 under Reception No. 497225.

Approved by the Board of Directors September 20, 2021  
Pending approval of 2/3 of the Owners

11. TRACT II: A tract of land being more particularly described as follows:

- BEGINNING at a point whence the NE corner of said Section 3 bears North 00°36'12" West, 1650.40 feet;
- Thence South 00°36'12" East, 507.30 feet along the east line of said Section 3;
- Thence North 67°54'00" West, 453.06 feet;
- Thence North 20°46'00" East, 34.97 feet to the southerly right-of-way of U.S. Highway 550;
- Thence North 52°03'00" East, 431.63 feet along the southerly right-of-way of U.S. Highway 550;
- Thence North 57°54'00" East, 72.80 feet along the southerly right-of-way of U.S. Highway 550 to the point of beginning.

12. Excluding from the above the Additional Property.

**EXHIBIT B.**  
**RIGHTS AND DUTIES ASSOCIATED WITH THE ADDITIONAL PROPERTY**

Additional property may be added to the Property and made a part of The Ranch subject to the Declaration provided that all of the following eight (8) criteria are satisfied:

1. In addition to any notices required by the Colorado subdivision laws and La Plata County subdivision regulations, the Additional Property Owner shall provide notice to the Executive Board of the Additional Property Owner's intention to add property under this Section.
2. No added Lot in the Additional Property shall be less than 12,000 square feet in land area.
3. The Additional Property Owner shall certify to the Executive Board that the property to be added shall be developed in accordance with the Declaration and Architectural Rules and that development of the additional property shall be comparable to and consistent with the previously completed areas of The Ranch.
4. The Additional Property Owner shall set forth a preliminary plan for the landscaping of the Common Areas of the additional property, together with a proposed schedule for completion of installation. The Additional Property Owner shall certify to the Executive Board that the landscaping for the additional property shall be comparable in appearance and complementary to the landscaping of the previously completed areas of The Ranch.
5. The Additional Property Owner shall provide a proposed schedule for completion of installation of the irrigation system for the Additional Property and shall provide a schematic drawing of the proposed location of all irrigation equipment, motors, pumps and lines to the Executive Board for its review and approval.
6. The Additional Property Owner shall certify to the Executive Board that the roads constructed for the Additional Property shall be constructed in accordance with the road standards established by La Plata County. Further, the Additional Property Owner shall certify to the Executive Board that conformance of the roads to County standards shall be assured through testing of sub-grade and surface by a qualified engineering firm.
7. A subdivision map, approved by all appropriate parties including the Executive Board of the Ranch Property Owners Association, shall have been recorded with the County Clerk/Recorder, La Plata County, Colorado with respect to the real property to be added.
8. The Additional Property Owner shall transfer by special warranty deed to the Association all Common Areas and improvements thereon, and such mineral rights as Additional Property Owner may hold or obtain, as they exist and as they are shown on the final subdivision map for such additional property, excluding water lines which shall be conveyed to Animas Water Company. The Additional Property Owner shall provide title insurance, at Additional Property Owner's cost, for the Common Areas conveyed hereunder.

Approved by the Board of Directors September 20, 2021  
Pending approval of 2/3 of the Owners

**EXHIBIT C.  
ABOVE-GROUND FENCES**

Lots listed below by number are those Lots on which above ground fences shall be permitted:

Lot# 1  
Lot# 2  
Lot# 3  
Lot# 4  
Lot# 5  
Lot# 6  
Lot# 7  
Lot# 8  
Lot# 9  
Lot# 10  
Lot# 76  
Lot# 77  
Lot# 78  
Lot# 83  
Lot# 84  
Lot# 85  
Lot# 86  
Lot# 87  
Lot# 108  
Lot# 109  
Lot# 142  
Lot# 143  
Lot# 144  
Lot# 145  
Lot# 146  
Lot# 148



Approved by the Board of Directors September 20, 2021  
Pending approval of 2/3 of the Owners

SECOND AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
THE RANCH

**EXHIBIT D.**  
**FORM OF BUYER ACKNOWLEDGEMENT**

THE BUYER HEREBY ACKNOWLEDGES THAT THE BUYER HAS RECEIVED COPIES OF THE GOVERNING DOCUMENTS OF THE RANCH PROPERTY OWNERS ASSOCIATION IN WHICH THE PROPERTY IS LOCATED, AND THE BUYER UNDERSTANDS THAT THESE DOCUMENTS CONSTITUTE AN AGREEMENT BETWEEN THE ASSOCIATION AND THE BUYER. BY SIGNING THIS STATEMENT, THE BUYER ACKNOWLEDGES THAT THE BUYER;

1. HAS READ AND UNDERSTANDS THE ASSOCIATION'S GOVERNING DOCUMENTS .
2. UNDERSTANDS THAT BY COMPLETING THIS PURCHASE, THE BUYER IS RESPONSIBLE FOR PAYING ASSESSMENTS TO THE ASSOCIATION.
3. UNDERSTANDS IF THE BUYER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO COLLECT THE DEBT.
4. UNDERSTANDS THAT ANY CHANGE TO THE EXTERIOR OF THE PROPERTY MAY BE SUBJECT TO ARCHITECTURE COMMITTEE REVIEW AND APPROVAL. FAILURE TO SECURE SUCH REVIEW AND APPROVAL COULD BE A VIOLATION OF THE DECLARATION AND COULD RESULT IN REMEDIAL ACTION BEING TAKING BY THE ASSOCIATION. [38-35.7- 102(1)(b)(1) COLORADO CODE]

Date: \_\_\_\_\_

Signature of Buyer(s):