

**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR THE VILLAGE AT COTTON RANCH
PARCEL A**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE VILLAGE AT COTTON RANCH PARCEL A (as amended from time to time, this "Declaration") is made as of December 31 2014 by LAND BLACK BEAR, LLC, a Colorado limited liability company (together with its successors and assigns, "Declarant").

Recitals

- A. Declarant owns the real property located in the Town of Gypsum, Eagle County, Colorado, that is more particularly described on Exhibit A attached hereto and made a part hereof.
- B. Declarant desires to create a planned community on such property pursuant to the Colorado Common Interest Ownership Act, Colorado Revised Statutes 38-33.3-101 through 38-33.3-401, as the same may be amended from time to time.
- C. Declarant deems it necessary and desirable to subject such property to the covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth in this Declaration.

Declaration

In consideration of the foregoing, Declarant hereby declares as follows:

**ARTICLE I
DECLARATION**

1.01. Declarant hereby creates a planned community named "The Village at Cotton Ranch PARCEL A" on the Property (as such term is defined below) and declares that the Property shall be held, sold and conveyed subject to the covenants, conditions, restrictions, reservations, casements, assessments, charges, liens and other provisions of this Declaration.

1.02 Covenants Running with the Land.

All covenants, conditions, restrictions, reservations, easements, charges, liens and other provisions of this Declaration are covenants running with the land, or equitable servitudes, as the case may be. The obligations, burdens and benefits created by this Declaration shall bind and inure to the benefit of Declarant, the Owners (as such term is defined below), the

Village Association (as such term is defined below), all other parties having any right, title or interest in the Property or any portion thereof and their respective successors, assigns, heirs, devisees, executors, administrators and personal representatives.

ARTICLE II DEFINITIONS

2.01 Basic Definitions.

As used in this Declaration, the following terms have the meanings given to them in this Section 2.01.

(A) "Act" means the Colorado Common Interest Ownership Act, Colorado Revised Statutes 38-33.3-101 through 38-33.3-401, as the same may be amended from time to time.

(B) "Additional Property" means the various parcels of real property located in the Town of Gypsum, Eagle County, Colorado, that are more particularly described on Exhibit B attached hereto and made a part hereof.

(C) "Articles" means the articles of incorporation of the Village Association, as the same may be amended from time to time.

(D) "Assessment" means a General Assessment, a Special Assessment or a Default Assessment levied and assessed pursuant to Article VII below.

(E) "Assessment Lien" has the meaning given to that term in Section 7.08 below.

(F) "Bylaws" means the bylaws of the Village Association, as the same may be amended from time to time.

(G) "Common Elements" means the General Common Elements and the Limited Common Elements.

(H) "Common Expenses" means:

(i) any and all costs, expenses and liabilities incurred by or on behalf of the Village Association, including, without limitation, costs, expenses and liabilities for (a) managing, operating, insuring, improving, repairing, replacing and maintaining the Common Elements, the Party Walls, and the exteriors of the Homes; (b) providing facilities, services and other benefits to Owners; (c) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby; (d) levying, collecting and enforcing the Assessments, charges and liens imposed pursuant hereto; (e) regulating and managing the Village; and (f) operating the Village

Association; and

(ii) reserves for any such costs, expenses and liabilities, including, without limitation, reserves for working capital and reserves for capital repairs, replacements and improvements.

(I) "Cotton Ranch Association" means The Cotton Ranch Homeowners' Association, a Colorado nonprofit corporation.

(J) "Cotton Ranch Association Documents" means the Cotton Ranch Association Declaration and the articles of incorporation, bylaws and all rules and regulations of the Cotton Ranch Association, including, without limitation, those of the Cotton Ranch Association's Design Review Committee, as the same may be amended from time to time.

(K) "Cotton Ranch Association Declaration" means the Declaration of Protective Covenants, Conditions and Restrictions for The Cotton Ranch recorded in the Eagle County Records on October 30, 1995, at Reception No. 575562, as the same may be amended from time to time.

(L) "Declarant" means Land Black Bear LLC, a Colorado limited liability company, and its successors and assigns.

(M) "Declarant Control Period" has the meaning given to that term in Section 6.03 below.

(N) "Declaration" means this Declaration of Covenants, Conditions and Restrictions for The Village at Cotton Ranch PARCEL A, as the same may be amended from time to time.

(O) "Default Assessment" has the meaning given to that term in Section 7.06 below.

(P) "Director" means a duly elected or appointed member of the Executive Board

(Q) "Eagle County Records" means the Office of the Clerk and Recorder for Eagle County, Colorado.

(R) "Executive Board" means the Village Association's board of directors.

(S) "First Mortgage" means any Mortgage which is not subordinate to any other lien or encumbrance, except liens for taxes or other liens which are given priority by

(T) "First Mortgagee" means a Mortgagee under a First Mortgage.

- (U) "General Assessment" has the meaning given to that term in Section 7.04 below.
- (V) "General Common Elements" means all of the Village, other than the Homes and the Limited Common Elements. Without limiting the generality of the foregoing, the General Common Elements include, without limitation:
- (i) any gazebos, water features, playgrounds and recreational facilities located within the Village; and
 - (ii) all yards, sidewalks, walkways, trails, paths, lawns, shrubbery, trees, gardens and landscaping within the Village, other than those that are designated as Limited Common Elements by this Declaration or the Plat.
- (W) "Guest" means any family member, employee, agent, independent contractor, lessee, licensee or invitee of an Owner.
- (X) "Home" means:
- (i) any parcel of real property within the Village that is designated as a lot on the Plat, together with the single family residence built on such lot; and
 - (ii) any parcel of real property that Declarant later adds to the Village pursuant to Section 15.02 below, and designates as a lot on the Plat, together with the single family residence built on such lot. As used in this Declaration, a "Home" is intended to be a "unit," as that term is used in the Act.
- (Y) "Limited Common Elements" means those portions of the Common Elements allocated by this Declaration, the Plat or by operation of the Act for the exclusive use of one or more Homes, but fewer than all of the Homes. Without limiting the generality of the foregoing, "Limited Common Elements" include, without limitation, any driveway, walkway or other physical portion of the Village that is designated on the Plat as "Limited Common Element" or "LCE"
- (Z) "Majority," whether or not capitalized, means any percentage greater than 50 percent.
- (AA) "Mortgage" means any mortgage, deed of trust or other document pledging any Home or interest therein as security for payment of a debt or obligation.
- (BB) "Mortgagee" means any Person named as a mortgagee or beneficiary in any Mortgage and any successor to the interest of any such Person under a Mortgage.

(CC) "Officer" means a duly elected or appointed officer of the Village Association.

(DD) "Owner" means the record holder of legal title to the fee simple interest in any Home or portion thereof. If there is more than one record holder of legal title to a Home, each record holder shall be an Owner. The term "Owner" includes Declarant to the extent that Declarant is the record holder of legal title to the fee simple interest in a Home.

(EE) "Party Wall" means a load-bearing wall separating two adjoining Homes. Each Party Wall is owned by the Owners of the adjoining Homes as tenants-in-common.

(FF) "Person" means any natural person, corporation, partnership, limited liability company, association, trust, trustee, governmental or quasi-governmental entity or any other entity capable of owning real property under the laws of the State of Colorado.

(GG) "Plat" means the planned community plat of The Village at Cotton Ranch attached hereto and made a part hereof as Exhibit C, as the same may be amended from time to time

(HH) "Property" means:

- (i) the real property located in Eagle County, Colorado, that is more particularly described on Exhibit A attached hereto and made a part hereof; and
- (ii) any real property that is later made subject to this Declaration in accordance with the terms and conditions contained herein.

(II) "Purchaser" means a Person, other than Declarant or a Successor Declarant, who acquires legal title to the fee simple interest in any Home or portion thereof.

(JJ) "Rules and Regulations" means any instruments adopted by the Village Association for the regulation and management of the Village, as the same may be amended from time to time.

(KK) "Share of Common Expenses" means the share of Common Expenses allocated to each Home in accordance with the terms and conditions of Section 7.02 below.

(LL) "Special Assessment" has the meaning given to that term in Section 7.05 below.

(MM) "Special Declarant Rights" means all "special declarant rights" (as such term is defined in the Act) that Declarant reserves for itself in this Declaration.

(NN) "Successor Declarant" means any Person who succeeds to any Special Declarant Right.

(OO) "Village" means The Village at Cotton Ranch, PARCEL A, the planned community created on the Property by this Declaration, consisting of the Homes and the Common Elements.

(PP) "Village Association" means The Village at Cotton Ranch, PARCEL A Homeowners' Association, Inc., a Colorado nonprofit corporation, and its successors and assigns.

(QQ) "Village Association Documents" means this Declaration, the Articles, the Bylaws and the Rules and Regulations, as the same may be amended from time to time.

2.02 Gender and Number.

Wherever the context of this Declaration so requires:

- (a) words used in the masculine gender shall include the feminine and neuter genders;
- (b) words used in the neuter gender shall include the masculine and feminine genders;
- (c) words used in the singular shall include the plural; and
- (d) words used in the plural shall include the singular.

**ARTICLE III
HOMES AND COMMON ELEMENTS**

3.01 Homes.

(a) Declarant hereby creates 14 Homes within the Village, the boundaries and identifying numbers of which are shown on the Plat.

(b) Declarant reserves the right to create a maximum of 72 Homes within the Village, as the same may be expanded from time to time.

3.02 Limited Common Elements.

Except as expressly provided to the contrary in this Declaration, the allocation of the Limited Common Elements shown on the Plat or by operation of the Act may not be altered without the consent of all Owners whose Homes would be affected by such reallocation, and then, only in accordance with the terms and conditions of the Act.

3.03 Separate Taxation of Homes.

Pursuant to the Act, each Home constitutes a separate parcel of real estate and will be separately assessed and taxed.

**ARTICLE IV
THE VILLAGE ASSOCIATION**

4.01 Formation of the Village Association.

On or before the date on which Declarant conveys the first Home to a Purchaser, Declarant shall form the Village Association.

4.02 Purposes and Powers.

(a) The Village Association's purposes are:

- (i) to manage, operate, insure, construct, improve, repair, replace and maintain the Common Elements, the Party Walls, and the exteriors of the Homes;
- (ii) to provide certain facilities, services and other benefits to the Owners;
- (iii) to administer and enforce the covenants, conditions, restrictions, reservations and easements created hereby;
- (iv) to levy, collect and enforce the Assessments, charges and liens imposed pursuant hereto;
- (v) to enter into agreements with other Persons, including, without limitation, easements, licenses, leases and other agreements with the Cotton Ranch Association, the Cotton Ranch Metropolitan District, the Town of Gypsum, any other governmental or quasi-governmental entity, or any other Person, which contemplates the sharing of expenses among the Village Association and such other Persons for improvements, facilities and services that serve the Village Association and such other Persons;
- (vi) to take any action that it deems necessary or appropriate to protect the interests and general welfare of Owners; and
- (vii) to regulate and manage the Village.

(b) Unless expressly prohibited by law or any of the Village Association Documents, the Village Association may:

- (i) take any and all actions that it deems necessary or advisable to fulfill its purposes;
 - (ii) exercise any powers conferred on it by the Act or any Village Association Document; and
 - (iii) exercise all powers that may be exercised in Colorado by nonprofit corporations.
- (c) Without in any way limiting the generality of Section 4.02(b) above, the Village Association may, but is not obligated to:
- (i) provide certain facilities and services to the Owners, such as (A) playgrounds and recreational facilities and services, (B) gazebos and water features, (C) trash collection facilities and services, and (D) snow removal facilities and services;
 - (ii) acquire, sell, lease and grant easements over, across and through Common Elements;
 - (iii) acquire, develop, sell and lease real estate, water, water rights, ditches and ditch rights;
 - (iv) borrow monies and grant security interests in the Common Elements and in the assets of the Village Association as collateral therefor;
 - (v) make capital improvements, repairs and replacements to the Common Elements, the Party Walls, and the exteriors of the Homes; and
 - (vi) hire and terminate managing agents and other employees, agents and independent contractors.

4.03 Village Association Documents.

- (a) This Declaration creates the Village and sets forth certain covenants, conditions, restrictions, reservations, easements, assessments, charges and liens applicable to the Property. The Articles create the Village Association. The Bylaws provide for the regulation and management of the Village Association and the Rules and Regulations provide for the regulation and management of the Village.
- (b) If there is any conflict or inconsistency between the terms and conditions of this

Declaration and the terms and conditions of the Articles, the Bylaws or the Rules and Regulations, the terms and conditions of this Declaration shall control. If there is any conflict or inconsistency between the terms and conditions of Articles and the terms and conditions of the Bylaws or the Rules and Regulations, the terms and conditions of the Articles shall control. If there is any conflict or inconsistency between the terms and conditions to the Bylaws and the terms and conditions of the Rules and Regulations, the terms and conditions of the Bylaws shall control.

4.04 Books and Records.

Upon request, the Village Association shall allow Owners, Mortgagees and their respective agents to inspect current copies of the Village Association Documents and the books, records, budgets and financial statements of the Village Association during normal business hours and under other reasonable circumstances. The Village Association may charge a reasonable fee for copying such materials.

**ARTICLE V
VOTING**

5.01 Voting

(a) Each Home shall be entitled to one vote, regardless of the number of Owners of the Home. Fractional voting shall not be allowed. If the Owners of a Home 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 casts a vote representing a certain Home, it will thereafter be presumed for all purposes that the Owner was acting with the authority and consent of all other Owners of the Home, unless objection thereto is made by an Owner of the Home to the Person presiding over the meeting at the time the vote is cast. If more than one vote is cast for any particular Home, none of such votes shall be counted and all of such votes shall be deemed null and void.

(b) In any election of Directors to the Executive Board, every Home shall have the number of votes equal to the number of Directors to be elected. Cumulative voting shall not be allowed in the election of Directors of the Executive Board or for any other purpose.

(c) The Village Association shall have no voting rights for any Home owned by the Village Association.

**ARTICLE VI
EXECUTIVE BOARD**

6.01 Number and Election of Directors.

The Executive Board shall consist of three (3) to seven (7) Directors, as specified in the Bylaws. The initial Executive Board shall consist of three (3) Directors. Subject to the terms and conditions of the following sentence and of Sections 6.03 and 6.04 below, each Director shall hold office for a three (3) year term. One of the three (3) initial Directors shall hold office until the 2018 annual meeting, one of the three (3) initial Directors shall hold office until the 2019 annual meeting, and one of the three (3) initial Directors shall hold office until the 2020 annual meeting. Thereafter, at each annual meeting, the successors to the Directors whose terms expire at that meeting shall be elected or appointed to hold office for terms expiring at the annual meeting held in the third year following the year of their election. If at any time there are more than three Directors, the additional Directors also shall serve staggered terms.

6.02 Powers of the Executive Board.

(a) Except as provided in this Declaration, the Articles and the Bylaws, the Executive Board may act on behalf of the Village Association in all instances.

(b) The Executive Board may not act on behalf of the Village Association to:

- (i) amend this Declaration;
- (ii) terminate the Village Association, this Declaration or the Village;
- (iii) elect Directors to the Executive Board, other than to fill a vacancy for the unexpired portion of any Director's term, subject to Declarant's rights under Section 6.03 below; or
- (iv) determine the qualifications, powers and duties, or terms of office, of Directors.

6.03 Declarant Control Period.

(a) Subject to the terms and conditions of Sections 6.03(b) and (c) below, but notwithstanding anything else to the contrary contained in this Declaration or in any other Village Association Document, Declarant shall have the exclusive right to appoint and remove all Directors and Officers during the Declarant Control Period. The phrase "Declarant Control Period" means the period commencing on the date on which Declarant forms the Village Association and ending on the earliest to occur of:

- (i) the date that is sixty (60) days after conveyance to Purchasers of seventy five percent (75%) of the maximum number of Homes that may be created by Declarant under this Declaration;
- (ii) the date that is two (2) years after the last conveyance of a Home by

Declarant or a Successor Declarant in the ordinary course of business; or

(iii) the date that is two (2) years after any right to add new Homes was last exercised.

(b) Declarant may voluntarily surrender its right to appoint and remove Officers and Directors prior to the expiration of the Declarant Control Period, but, in that event, Declarant may require, for the remainder of the Declarant Control Period, that specific actions of the Village Association or the Executive Board, as described in a recorded instrument executed by Declarant, be approved by the Declarant before they become effective.

(c) Notwithstanding anything to the contrary contained in Section 6.03(a) above, not later than sixty (60) days after the conveyance of twenty five percent (25%) of the Homes that may be created under this Declaration to Purchasers, one Director appointed by Declarant shall be replaced with one Director elected by Owners other than Declarant.

(d) During the thirty (30) day period immediately preceding the date on which the Declarant Control Period expires, the Owners shall elect an Executive Board of three (3) Directors, at least a majority of whom must be Owners other than Declarant or designated representatives of Owners other than Declarant. Such Directors shall take office upon election and shall serve terms as follows: One of the three Directors shall hold office until the annual meeting following the date on which such Director was elected to serve on the Executive Board, one of the three (3) Directors shall hold office until the second annual meeting following the date on which Directors were elected to serve on the Executive Board, and one of the three (3) Directors shall hold office until the third annual meeting following the date on which such Directors were elected to serve on the Executive Board. Thereafter, at each annual meeting, the successors to the Directors whose terms expired at that meeting shall be elected or appointed to hold office for terms expiring at the annual meeting held in the third year following the year of their election. If at any time there are more than three Directors, the additional Directors also shall serve staggered terms.

6.04 Removal of Directors.

Notwithstanding any provision of this Declaration or any other Village Association Document to the contrary, the Owners, by a sixty seven percent (67%) vote of all Homes represented and entitled to vote at any meeting at which a quorum is present, may remove any Director, with or without cause, other than a Director appointed by Declarant during the Declarant Control Period.

ARTICLE VII

ASSESSMENTS, COMMON EXPENSES, BUDGETS AND LIENS

7.01 Obligations for Assessments.

(a) Each Owner, by accepting a deed to a Home (whether or not it shall be expressly stated in such deed), shall be deemed to have covenanted and agreed, to pay to the Village Association all:

- (i) General Assessments;
- (ii) Special Assessments;
- (iii) Default Assessments; and
- (iv) other charges,

that the Village Association is required or permitted to levy or impose on such Owner or such Owner's Home pursuant to this Declaration or any other Village Association Document.

(b) Notwithstanding the definition of the term "Owner":

- (i) a Person who acquires a Home in a foreclosure sale shall be personally liable for all Assessments and other charges that the Village Association is required or permitted to levy or impose on that Home or on the Owner of that Home commencing on the date of the foreclosure sale ; and
- (ii) a Person who acquires a Home by deed-in-lieu of foreclosure shall be personally liable for all Assessments and other charges that the Village Association is required or permitted to levy or impose on that Home or on the Owner of that Home commencing on the date on which the Owner of the Home executes the deed-in-lieu of foreclosure.

(c) No Owner shall be exempt from liability for any such Assessment or other charges by waiving the use or enjoyment of any Common Element or by abandoning a Home 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 or such Owner's Home during the period of such Owner's ownership of the Home. If there is more than one Owner of a Home, each Owner shall be jointly and severally liable with the other Owners of the Home for all Assessments and other charges levied on the Home or any Owner of the Home.

(e) Each Assessment or other charge, together with interest and penalties thereon and

all costs and expenses incurred by the Village Association to collect such Assessment or other amount, including all fees and disbursements of attorneys, accountants, appraisers, receivers and other professionals engaged by the Village Association in connection therewith, may be recovered by a suit for a money judgment by the Village Association without foreclosing or waiving any Assessment Lien securing the same.

7.02 Shares of Common Expenses.

(a) Except as otherwise set forth in this Declaration, the Village Association's Common Expenses shall be allocated among the Homes as set forth in this Section 7.02. The Share of Common Expenses allocated to a Home shall be expressed as a percentage and calculated in accordance with the following formula:

$$\text{Share of Common Expenses} = \frac{\text{\#of Homes within the Village}}{\text{X 100}}$$

(b) The Shares of Common Expenses attributable to the initial two (2) Homes created within the Village are set forth on Exhibit D attached hereto and made a part hereof.

(c) If any Homes are added to or withdrawn from the Village, the Shares of Common Expenses for all Homes within the Village after such addition or withdrawal shall be recalculated in accordance with the formula set forth in Section 7.02(a) above.

(d) Until the Village Association levies an Assessment, Declarant shall pay all Common Expenses.

7.03 Budgets.

(a) Prior to the first levy of a General Assessment, and thereafter on or before the date that is sixty (60) days prior to the date of the annual meeting of the Owners, the Executive Board shall adopt a proposed annual budget for the Village Association for the following fiscal year that sets forth:

- (i) the Executive Board's estimates of Common Expenses for the next fiscal year, including, without limitation, funding for reserves for working capital and funding for reserves for capital repairs, replacements and improvements; and
- (ii) the amount of funds for such Common Expenses that the Executive Board proposes to raise through Assessments.

(b) Within thirty (30) days after adopting a proposed annual budget, the Executive Board shall deliver a summary of the proposed annual budget to the Owners and set a date for a meeting of the Owners to consider ratification of the proposed annual budget. The date of such meeting shall not be less than fourteen (14) days nor more than sixty (60) days after the delivery of the summary of the proposed annual budget to the Owners. Unless at that meeting sixty seven percent (67%) of the votes allocated to all Homes, whether or not a quorum is present, rejects the proposed annual budget, the proposed annual budget shall be deemed ratified. If the proposed annual budget is rejected, the annual budget last ratified by the Owners shall be deemed renewed for the next calendar year and shall remain in full force and effect until such time as the Owners ratify a subsequent annual budget proposed by the Executive Board.

(c) If the Executive Board deems it necessary or advisable to amend an annual budget that has been ratified by the Owners under Section 7.03(b) above, 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 not be less than fourteen (14) days nor more than sixty (60) days after the delivery of the summary of the proposed amendment. Unless at that meeting a sixty seven percent (67%) of the votes allocated to all Homes, whether or not a quorum is present, rejects the proposed amendment, the proposed amendment shall be deemed ratified.

7.04 General Assessments.

(a) After the Owners ratify an annual budget pursuant to Section 7.03(b) above, the Village Association shall levy an assessment for Common Expenses (a "General Assessment") on each Home. The amount of the General Assessment levied against a Home shall equal the product obtained by multiplying:

- (i) the amount set forth in the annual budget ratified by the Owners as the amount of Common Expenses to be raised by General Assessments, by
- (ii) that Home's Share of Common Expenses.

(b) The Owners shall pay the General Assessments levied against their respective Homes in such periodic installments as may be required by the Village Association.

(c) If the Owners ratify an amendment to the General Assessment portion of an annual budget pursuant to Section 7.03(b) above, the amount of the General

Assessment levied against each Home shall be adjusted accordingly, as shall the amount of each Owner's periodic installments.

(d) If the Owners fail to ratify an annual budget for any calendar year prior to January 1 of that calendar year, the Owners shall continue to pay periodic installments of the General Assessment to the Village Association at the rate payable during the prior calendar year until such time as the Owners ratify a new annual budget for the then current calendar year. Once the Owners ratify a new annual budget, the Village Association shall levy against each Home the General Assessment for the then current calendar year and each Owner's periodic installments shall be adjusted as necessary to pay the new General Assessment in equal periodic installments over the remainder of such calendar year, giving the Owners credit, in such manner as the Executive Board deems necessary or appropriate, for any installments that the Owners have previously paid to the Village Association during such calendar year.

(e) The failure of the Village Association to levy a General Assessment for any calendar year shall not be deemed a waiver, modification or release of an Owner's liability for the Share of Common Expenses allocated to such Owner's Home.

7.05 Special Assessments.

(a) The Assessments that the Village Association may levy pursuant to this Section 7.05 are referred to in this Declaration as "Special Assessments."

(b) Notwithstanding anything to the contrary, contained in Section 7.04 above, if any Common Expense is attributable to the operation, maintenance, repair, replacement, alteration or improvement of a Limited Common Element, a Party Wall or the exterior of one or more Homes, the Village Association may levy an Assessment for such Common Expense against the Homes to which that Limited Common Element is assigned, in which such Party Wall is located, or on which such exterior work was performed, as the case may be, equally, in proportion to the Shares of Common Expenses attributable to those Homes or in any other equitable proportion as the Village Association reasonably deems appropriate.

(c) Notwithstanding anything to the contrary contained in Section 7.04 above, if any Common Expense or portion thereof benefits fewer than all of the Homes, the Village Association may levy an Assessment for such Common Expense against the Homes benefitted thereby, equally, in proportion to the Shares of Common Expenses

attributable to those Homes or in any other equitable proportions as the Village Association reasonably deems appropriate.

(d) Each Special Assessment levied against any Home shall be shown on an annual budget, or an amendment to an annual budget, ratified by the Owners pursuant to Section 7.03 above and shall be paid as and when required by the Village Association.

7.06 Default Assessments.

(a) Notwithstanding anything to the contrary contained herein, if any of the following occur,

- (i) negligence or misconduct of an Owner or an Owner's Guest that causes damage directly or indirectly to the Property; or
- (ii) violation of any covenant or condition of a Village Association Document by an Owner or an Owner's Guest,

the Village Association may levy an Assessment for such Common Expense against such Owner's Home. Any such Assessment levied by the Village Association and each fine, penalty, fee or other charge imposed upon an Owner for the Owner's violation of any covenant or condition of any Village Association Document are each referred to herein as a "Default Assessment."

(b) Default Assessments need not be shown on an annual budget, or on an amendment to an annual budget, ratified by the Owners pursuant to Section 7.03 above.

(c) With respect to any Default Assessment, or portion thereof, levied other than as a late charge, the Owner of the Home against which the Village Association seeks to levy the Default Assessment shall be provided notice and an opportunity to be heard. Owners of Homes against which Default Assessments have been levied shall pay such Default Assessments as and when required by the Village Association.

7.07 Assignment of Assessments.

The Village Association shall have an unrestricted right to assign its right to receive Assessments and other future income, either as security for obligations of the Village Association or otherwise, on the condition that any such assignment is approved by a

majority of the votes allocated to Homes present at a meeting at which a quorum is present.

7.08 Assessment Lien.

(a) The Village Association shall have a lien on each Home for any Assessment levied against that Home and any fines, late charges, penalties, interest and attorneys' fees, disbursements and costs of collection imposed against its Owner under any Village Association Document (the "Assessment Lien"). The Assessment Lien shall secure all of the foregoing obligations of an Owner from the time such obligations become due. If an Assessment is payable in installments, the Assessment Lien shall secure each installment from the time it becomes due, including the due date set by any valid Village Association acceleration of installment obligations.

(b) An Assessment Lien is prior to all other liens and encumbrances on a Home, except:

- (i) liens and encumbrances recorded prior to the recordation of this Declaration;
- (ii) liens for real estate taxes and other governmental assessments or charges against the Home; and
- (iii) a First Mortgage which was recorded before the date on which the Assessment sought to be enforced became delinquent.

(c) Notwithstanding the terms and conditions of subSection 7.08(b)(iii) above, an Assessment Lien is also prior to a First Mortgage recorded before the date on which the Assessment sought to be enforced became delinquent to the extent permitted by the Act.

(d) The recording of this Declaration constitutes record notice and perfection of an Assessment Lien on each Home. No further recordation of any claim of any Assessment Lien is required.

(e) Pursuant to the Act, an Assessment Lien is extinguished unless proceedings to enforce the Assessment Lien are instituted within six (6) years after the full amount of the Assessment secured thereby becomes due.

(f) This Section 7.08 does not prohibit actions or suits to recover sums secured by an Assessment Lien or to prohibit the Village Association from taking a deed in lieu of foreclosure.

(g) In any action by the Village Association to collect Assessments or to foreclose an Assessment Lien for unpaid Assessments, the court may appoint a receiver of the Owner to collect all sums alleged to be due from the Owner prior to or during the pendency of the action. A court may order the receiver to pay any sums held by the receiver to the Village Association during the pending of the action to the extent of the Village Association's Assessments.

(h) An Assessment Lien may be foreclosed in like manner as a mortgage on real estate. Periodic Assessments shall be payable during the period of foreclosure of an Assessment Lien.

7.09 Waiver of Homestead Exemptions.

By acceptance of the deed or other instrument of conveyance of a Home, an Owner irrevocably waives the homestead exemption provided by Part 2, Article 41, Title 38, Colorado Revised Statutes, as amended, as the same may apply to the Assessment Lien.

7.10 Estoppel Certificates; Notices to Mortgagees.

(a) The Village Association shall furnish to an Owner or such Owner's designee or to a Mortgagee or its designee upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Village Association's registered agent, a statement setting forth the amount of unpaid Assessments currently levied against such Owner's Home. The statement shall be furnished within fourteen (14) calendar days after receipt of the request and is binding on the Village Association, the Executive Board and every Owner. If no statement is furnished to the Owner, the Mortgagee or their designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Village Association shall have no right to assert the priority of its Assessment Lien upon the Home for unpaid Assessments which were due as of the date of the request.

(b) If a First Mortgagee delivers to the Village Association a written request for notice of unpaid Assessments levied against a Home subject to a First Mortgage held by the First Mortgagee, the Village Association shall report to the First Mortgagee any unpaid Assessments levied against such Home that remain unpaid for more than sixty (60) days after the same shall have become due. The First Mortgagee may pay any such unpaid Assessment, together with any and all costs and expenses incurred with

respect to the Assessment Lien securing such unpaid Assessment and, upon such payment, the First Mortgagee shall have a lien on the Home for the amounts paid with the same priority as a lien of the First Mortgage held by such First Mortgagee.

7.11 Reserve Funds.

(a) Pursuant to the Rules and Regulations and in compliance with the Act, the Village Association shall have the right to maintain reserve funds for Common Expenses, including a reserve fund for working capital and a reserve fund for capital repairs, replacements and improvements.

(b) The working capital reserve fund will be funded as follows. At the closing of the sale of a Home by the Declarant to a Purchaser, the Purchaser shall pay to the Village Association an amount equal to the Village Association's estimate of three (3) months of Common Expenses for the fiscal year in which the sale of the Home occurs. Thereafter, the Village Association may increase the working capital reserve fund or replace funds withdrawn from the working capital reserve fund with funds collected through Assessments.

(c) The capital repair, replacement and improvement reserve fund shall be funded separately from the working capital reserve fund with funds collected through Assessments.

(d) Payments by Purchasers to the Village Association at closings under Section 7.11(b) above shall not be credited against, or relieve Purchasers from, their obligation to pay regular Assessments levied against Homes by the Village Association.

(e) Upon the sale of a Home from one Owner to another, the Village Association shall not be obligated to return to the transferor any funds held in reserve, but the transferor shall be entitled to an appropriate credit from its transferee.

7.12 Cotton Ranch Association Assessments. The Village Association shall have the right to collect, on behalf of the Cotton Ranch Association, all assessments and other charges levied or imposed against Homes by the Cotton Ranch Association pursuant to the Cotton Ranch Association Documents.

**ARTICLE VIII
UTILITY AND OTHER SERVICES**

8.01 Potable Water. Non-potable Water. Sewer. Gas. Electric. Telephone and Cable

Television Services.

(a) The Owner of a Home shall be responsible for obtaining potable water, sewer, gas, electric, telephone and cable television services for his Home, and shall pay all costs, expenses, fees, rates and other charges incurred in connection therewith directly to the utility company providing the same.

(b) The Village Association shall be responsible for obtaining potable water, non-potable water, sewer, gas, electric, telephone and cable television services for all Common Elements, and shall pay all costs, expenses, fees, rates and other charges incurred in connection therewith.

(c) The Town of Gypsum only provides potable, in-house water to the Village. All irrigation for lawns, gardens, and any other uses outside homes and in open space will be provided by a raw water irrigation system constructed and managed by the Village through the Cotton Ranch Metropolitan Service District. Irrigated areas shall not exceed 1,000 sf per Home and vegetation shall be drought tolerant species. The raw water irrigation is supplied by a combination of water rights, with various priorities in the state priority system. Thus similar to many other municipal and district irrigation supplies with more junior priorities in Colorado, the raw water irrigation system supply may be subject to curtailment during irrigation season. Disclosure is hereby provided to all purchasers of a Home within the Village as follows: each lot may be subject to watering restrictions during irrigation season which result in partial or full curtailment of the irrigation water to each lot. No more than one outside hose bib per Home may be installed on the residential unit from the potable supply and it shall be located on the front side of each Home and shall not be used for outdoor irrigation.

8.02 Trash Removal and Snow Removal Services. The Village Association shall be responsible for trash removal and snow removal services for all portions of the Village, as such services are not performed by the Town of Gypsum.

**ARTICLE IX
MAINTENANCE OF COMMON ELEMENTS AND HOMES**

9.01 Maintenance of Common Elements.

(a) Except as otherwise provided in this Declaration, the Village Association shall maintain the Common Elements and the improvements and landscaping in good order

and repair and shall otherwise manage and operate the Common Elements as it deems necessary or appropriate. In this regard the Village Association may:

- (i) construct, modify, add to, repair, replace or renovate any improvements that are located on or constitute a part of any Common Elements;
- (ii) plant and replace trees, shrubs and other vegetation on any Common Elements
- (iii) place, maintain and replace signs upon any Common Elements;
- (iv) adopt and enforce Rules and Regulations regulating the use of Common Elements; and
- (v) take any other actions as the Village Association deems necessary or advisable to protect, maintain, operate, manage or regulate the use of the Common Elements.

(b) In addition, the Village Association shall maintain those portions of all public road right-of-ways located between the back of the curb and the Common Elements.

9.02 Maintenance of Homes.

(a) Subject to the terms and conditions of Section 9.02(b) below, each Owner, at such Owner's sole cost and expense, shall maintain in good order and repair its Home (including all fixtures located therein).

(b) The Village Association shall maintain and repair:

- (i) all exterior portions of the Homes, including, without limitation, decks, patios, porches, exterior stairs, verandas, pergolas, roofs, siding, trim, skylights, windows, window wells, exterior elevations, gutters, exterior doors, sidewalks, driveways and landscaping, and
- (ii) all Party Walls.

All costs incurred by the Village Association in connection with any such maintenance or repair of a Home shall be charged to the Owners of such Home as Special Assessments in accordance with Section 7.05 above. Notwithstanding the foregoing, the Owners shall be solely responsible for the maintenance and repair of

any hot tubs, air conditioning units, and other exterior mechanical projections that service their Homes.

9.03 Mechanic's Liens and Indemnification.

No labor performed or materials furnished and incorporated into a Home with the consent or at the request of an Owner or an agent, contractor or subcontractor of an Owner shall be the basis either for filing a lien against the Home of any other Owner not expressly requesting or consenting to the same, or against Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners and any Mortgagee from and against all liability arising from any claim or lien against the Home of any other Owner or against the Common Elements for construction performed or for labor, materials, services or supplies incorporated in the Owner's Home at the Owner's request.

**ARTICLE X
COVENANTS, CONDITIONS AND RESTRICTIONS**

10.01 Applicability of Covenants, Conditions and Restrictions.

Except as otherwise provided herein, the covenants, conditions and restrictions set forth in this Article X shall apply to all Homes and Common Elements.

10.02 Village Association Documents.

Each Owner shall comply with, and shall require its Guests to comply with, all provisions of the Village Association Documents that apply to the Owner or the Owner's Homes.

10.03 Notice of Conveyance or Encumbrance.

(a) Promptly after a conveyance of a fee simple interest in a Home or portion thereof and otherwise upon request by the Village Association, the grantee shall furnish a copy of the conveyance deed to the Village Association.

(b) Promptly after an encumbrance of a fee simple interest in a Home or portion thereof and otherwise upon request by the Village Association, the Owner shall furnish the Village Association with a copy of the Mortgage creating the encumbrance.

10.04 Use of Homes.

(a) Except as otherwise expressly permitted by this Declaration, an Owner may use its Home only as a permanent or vacation residence for itself and its Guests. In addition, in compliance with Section 18.02.280 of Town of Gypsum Zoning Code

- (i) A group of unrelated persons may live in a Home together so long as there is one (1) bedroom for each person. For example, two (2) unrelated persons may share a two-bedroom home. However, the maximum amount of unrelated persons that may live together in a Home is four (4).
- (ii) Guests who spend seven (7) or fewer consecutive nights in a Home shall not be deemed to reside in the Home for purposes of this Section 10.04(a).
- (iii) in the event this provision of the Declaration does not comply with Section 18.02.280 of the Town of Gypsum Zoning Code, Section 18.02.280 of the Town of Gypsum Zoning Code shall control.

(b) No Owner shall conduct any business, profession, occupation or trade from its Home, including, without limitation, the operation of a so-called "bed and breakfast" or "chalet," or "lodge", without the prior written consent of the Village Association.

(c) Notwithstanding the restrictions set forth in Section 10.04(b) above:

- (i) an Owner may use its Home as its private office, on the conditions that the Owner does not invite customers, clients or business invitees to his Home to conduct business and does not employ or engage employees or independent contractors that work from his Home;
- (ii) the Village Association and, during the Declarant Control Period, Declarant may use one Home owned or leased by it as a management office, or a combined management office and residence for a resident manager; and
- (iii) the Declarant may use any Homes owned or leased by it as model homes and management and sales offices.

10.05 Leases.

No Owner shall lease its Home without the prior written consent of the Village Association, which consent shall not be unreasonably withheld. In the event the Village Association consents to the lease of a Home, any such lease shall be subject to the following restrictions:

- (a) any such lease must comply with the occupancy restrictions described in Section 10.04(a) above;
- (b) any such lease shall be in writing, with a copy delivered to the Village Association, and shall provide that the lease is subject to the terms of this Declaration and the other Village Association Documents;
- (c) any such lease shall state that the failure of the lessee to comply with the terms of this Declaration or of any other Village Association Document shall constitute a default for which such lessee shall be liable to the Association as if such lessee were an Owner; and
- (d) in the event of the failure of the lessee to comply with the terms of this Declaration or of any other Village Association Document, the Owner shall be responsible and liable to the Village Association as if the Owner was the party that failed to comply with the terms of the Declaration or other Village Association Document, and at the request of the Village Association, the Owner shall, at the Owner's sole cost and expense, terminate the lease and commence eviction proceedings to evict the lessee from the Owner's Home.

10.06 Use of Common Elements.

All Owners and their Guests may use the Common Elements for the purposes for which such Common Elements are intended. Notwithstanding the preceding sentence, neither an Owner nor a Guest may use any Common Element in any manner that unreasonably interferes with the rights of other Owners in and to the Common Elements.

10.07 Alterations.

- (a) Except as otherwise provided in this Declaration, an Owner may not make any improvement or alteration to:
 - (i) the exterior of his Home,
 - (ii) any Party Wall that he shares with the Owner of another Home, or

(iii) any Common Element,

without the prior written consent of the Village Association, and, in the case of a Party Wall, without the prior written consent of the Owner with whom he shares the Party Wall.

(b) No new improvement shall be constructed on the Property and no alteration to the exterior surface of any existing improvement shall be made, except with the approval of the Village Association and the Cotton Ranch Association's Design Review Committee, and then only in strict accordance with the terms and conditions of the Village Association Documents and the Cotton Ranch Association Documents.

(c) Without limiting the generality of Sections 10.07 (a) and (b) above, an Owner may not, without the prior written consent of the Village Association, install or erect any improvement, mechanical system or fixture, such as fences, hot tubs, air conditioning units, satellite dishes and clotheslines, or any landscaping, such as gardens, shrubs and retaining walls, that affects either the exterior of the Owner's Home or any Common Element.

(d) For purposes of clarification, the Village Association shall be responsible for and have control over all painting (including the choice of colors) of the exterior surfaces of all Homes.

10.08 Nuisances. Hazardous Activities and Unsightliness.

(a) No Person shall conduct any activity on the Property, which creates a nuisance. Without limiting the generality of the foregoing:

(i) no lights shall be emitted that are unreasonably bright or cause unreasonable glare;

(ii) no sound shall be emitted that is unreasonably loud or annoying;

(iii) no odor shall be emitted that is unreasonably offensive.

(b) No Person shall conduct any activity on the Property, which is or might be hazardous to any Person or property. Without limiting the generality of the foregoing:

- (i) no open fires shall be allowed to exist, unless contained in a propane or gas barbecue grill (absolutely no charcoal grills shall be permitted on the Property);
 - (ii) no firearms may be discharged; and
 - (iii) no hunting may be conducted.
- (c) No unsightliness shall be permitted at the Property. Without limiting the generality of the foregoing:
- (i) all exterior mechanical equipment lines, wires, pipes and other facilities shall either be buried or enclosed within a structure approved by the Village Association and the Cotton Ranch Association's Design Review Committee; and
 - (ii) all garbage shall be stored in accordance with the terms and conditions of Section 10.14 below.
- (d) The Village Association shall have the power to grant variances from the terms and conditions of this Section 10.08 from time to time as it deems necessary. Normal construction activities shall not be considered to violate the terms and conditions of this Section 10.08.

10.09 Signs.

- (a) No signs whatsoever, including, but not limited to, "for sale" or "for rent" signs, shall be erected or maintained on the Property, except signs required by legal proceedings and such other signs as may be approved by the Village Association and the Cotton Ranch Association's Design Review Committee.
- (b) The restriction set forth in Section 10.09(a) above shall not apply to Declarant's construction or sales signage.

10.10 Compliance with Laws.

Nothing shall be done or kept at the Property in violation of any law, ordinance, rule, regulation or other requirement of any governmental or quasi-governmental authority.

10.11 Compliance with Insurance.

Except as may be approved in writing by the Village Association, nothing shall be done or kept at the Property that may result in the cancellation of any insurance maintained by the Village Association or may result in an increase in the rates of any such insurance.

10.12 Restriction on Subdivision. Rezoning and Timesharing.

- (a) No Home may be subdivided, unless the subdivision has been approved by 100 percent of the votes allocated to all Homes.
- (b) No application for rezoning any portion of the Property, and no applications for variances or use permits, shall be filed with any governmental or quasi- governmental authority, unless the proposed rezoning has been approved by 100 percent of the votes allocated to all Homes and the uses that would be permitted under the rezoning comply with this Declaration and the other Village Association Documents.
- (c) No Owner shall offer or sell any interest in any Home under a "timesharing" or "interval ownership" plan or similar plan.
- (d) The covenants, conditions and restrictions set forth in Sections 10.12(a)-(c) above shall not apply to Declarant's development of the Property or Declarant's exercise of any Special Declarant Right.

10.13 Vehicles and Parking.

- (a) No motor vehicle classed by manufacturer rating as exceeding three-quarter ton and no mobile home, trailer, detached camper or camper shell, boat, boat trailer or other similar equipment or vehicle may be kept or parked within the Property.
- (b) No motor vehicle shall be constructed, repaired or serviced within the Property.
- (c) Each Home has (i) an attached garage and (ii) a driveway identified on the Plat as a Limited Common Element appurtenant to that Home. The Owners of a Home may not keep on the Property more than one motor vehicle in addition to the number of motor vehicles that can be stored within their garage. The Owners of a Home are required to fully utilize the maximum parking capacity of their garage for parking their motor vehicles prior to parking any motor vehicle on the driveway appurtenant to their Home.

(d) An Owner may not park its vehicles, and shall not permit its Guests to park their vehicles, in any driveways that are designated as Limited Common Elements appurtenant solely to another Owner's Home.

(e) There shall be no parking of any vehicle on any street or road, on any sidewalk, or on the shoulder of any street or road within the Property at any time.

(f) An Owner must park any motor vehicle that displays commercial signage in the Owner's garage. Motor vehicles that display any commercial signage may not be parked in driveways.

(g) Guest parking will be available in designated areas throughout the Village. These designated areas shall only be used for Guest parking. Owners shall encourage Guests to use these designated guest parking areas. Guests shall use the guest parking areas in compliance with the Rules and Regulations.

10.14 Trash, Garbage and Other Waste Materials.

All trash, garbage and other waste materials must be stored in Homes until trash removal days. On trash removal days Owners shall place their trash, garbage and other waste materials in sealed trash cans at the end of the driveways appurtenant to their Homes. Owners shall not, and shall not permit their Guests to, litter. No burning of trash, garbage or other waste materials will be permitted at the Property.

10.15 Exterior Storage.

Except as may be permitted in writing by the Village Association, no Owner shall store any materials on or in any Common Element.

10.16 Animals.

(a) Except as expressly permitted by this Section 10.16, no animal of any kind shall be raised, bred or kept on the Property.

(b) An Owner (but not a tenant, guest or invitee of an Owner) may, without the consent of the Village Association, keep a maximum of two domestic household pets within a Home so long as they (i) are maintained in accordance with this Declaration and all other Village Association Documents and Cotton Ranch Association Documents; (ii) are not a nuisance; and (iii) are not kept, bred or maintained for any

commercial purposes. An Owner may not keep more than two domestic household pets within a Home, without the consent of the Village Association.

(c) No Owner shall allow any dog owned or controlled by such Owner to roam within the Village unattended. At all times, dogs shall either be (i) confined within the Owner's Home, or (ii) on a leash and under the direct control and supervision of their Owners. Owners must pick up and appropriately dispose of all of their dogs' droppings.

(d) An Owner must register any dog that it keeps within its Home with the Village Association.

10.17 Garage or Yard Sales.

(a) Except as expressly permitted by this Section 10.17, no garage or yard sales shall be permitted on the Property.

(b) The Village Association may specify up to two dates during any calendar year on which Owners shall be permitted to conduct garage or yard sales from their Homes. Any garage or yard sales shall be conducted in strict accordance with any rules, regulations or guidelines of the Village Association.

(c) Consistent with the restrictions on signs set forth in Section 10.09 above, there shall be no posting of signs anywhere on the Property announcing the occurrence of any garage or yard sales.

10.18 Proximity to Golf Course and Airport.

By accepting the deed to its Home, the Owner acknowledges that the Village is located adjacent to a golf course, which is expected to generate an unpredictable amount of golf cart, pedestrian and other traffic with its attendant noise. In addition, the Owners acknowledge that there are inherent risks of purchasing and owning residential property near, adjacent to, or in the vicinity of, a golf course. Such inherent risks include, without limitation, damage or injury to person or property arising out of, related to, or resulting from, the design, construction, operation, maintenance, and/or use of the golf course, errant golf balls, golf carts, trespass, negligence, acts or omissions of golfers or persons otherwise using the golf course, and the existence of bunkers, sand traps, water hazards, ditches, ponds and Jakes on the golf course property, including seepage therefrom. The Village also is located in close proximity to Eagle County Airport, which generates an unpredictable amount of noise and air pollution. The Owners acknowledge that there

are inherent risks to persons and property as a result of owning property in close proximity to an airport, including, but not limited to, the risks of airborne objects, including, without limitation, airplanes, helicopters and hot air balloons, and objects and/or persons falling or parachuting therefrom.

10.19 Declarant's Exemption.

Nothing contained in this Declaration or in any other Village Association Document shall be construed to prevent:

- (a) Declarant's exercise and enjoyment of any Special Declarant Right or any other rights of Declarant under this Declaration or any other Village Association Document; or
- (b) the conduct by Declarant or its employees or agents of any activity, including, without limitation, the erection or maintenance of temporary structures, trailers, improvements or signs, necessary or convenient to the development, construction, marketing or sale of property within or adjacent to the Village.

**ARTICLE XI
EASEMENTS AND RESERVATIONS**

11.01 Declarant's Easements Over Common Elements.

- (a) Declarant hereby reserves for itself, its successors and assigns a general easement over, across, through and under the Common Elements to:
 - (i) discharge Declarant's obligations under this Declaration;
 - (ii) exercise any of Declarant's rights under this Declaration; and
 - (iii) make improvements to the Property, the Additional Property or any other real estate owned by Declarant.
- (b) Declarant hereby reserves for itself, its successors and assigns, the right to:
 - (i) establish from time to time utility and other easements, permits or licenses over, across, through and under the Common Elements; and
 - (ii) create other reservations, exceptions and exclusions affecting the

Common Elements.

(c) In addition, until such time as Declarant adds the Additional Property to the Village, and after such time as Declarant withdraws any portion of the Property from the Village, Declarant shall have whatever easements as are reasonably necessary or desirable across the Property for access to and utility services for the Additional Property or the portion of the Property withdrawn from the Village, as the case may be.

11.02 Utility Easement.

(a) Subject to the terms and conditions of this Declaration and all other Village Association Documents, Declarant hereby creates a general easement over, across, through and under the Property for ingress to, egress from, and installation, replacement, repair and maintenance of, all utility and service lines and systems, including, without limitation, water, sewer, gas, telephone, electricity and cable communication that service the Property or any portion thereof as well as any such lines and systems which service property owned by Declarant.

(b) Pursuant to this easement, a utility or service company may install and maintain facilities and equipment on the Property and affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of Homes to provide service to the Homes or the Common Elements. Any utility or service company using this general easement shall use its best efforts to install, repair, replace and maintain its lines and systems without disturbing the uses of Owners, the Village Association, Declarant and other utility and service companies.

(c) If any utility or service company furnishing utilities or services to the Property or any portion thereof or property of Declarant as permitted under Section 11.02(a) above requests a specific easement by separate recordable document, the Village Association shall have the right and authority, but not the obligation, to grant such easement over, across, through and under any portion of the Property.

11.03 Village Association's Easements.

(a) The Village Association shall have a general easement over, across, through and under each Home to:

- (i) exercise any right held by the Village Association under this Declaration or any other Village Association Document; and
- (ii) perform any obligation imposed upon the Village Association by this Declaration or any other Village Association Document.

(b) Notwithstanding the foregoing, the Village Association shall not enter any Home without reasonable prior notice to the Owner thereof, except in cases of emergency.

11.04 Easements for Encroachments.

To the extent that any Home or Common Element encroaches on any other Home or Common Element, an easement shall exist for that encroachment, but such easement shall not relieve an Owner of liability in the case of willful misconduct.

11.05 Metro District Easement.

Declarant hereby grants a general easement to the Cotton Ranch Metropolitan District or other metropolitan or special district providing services or facilities to the Property to enter upon the Property in the proper performance of their duties.

11.06 Emergency Access Easement.

A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons to enter upon the Property in the proper performance of their duties.

11.07 Recorded Easements and Licenses.

The Property shall be subject to all easements and licenses as shown on any recorded plat affecting the Property and to any other easements or licenses of record or of use as of the date of recordation of this Declaration. The recording data for all presently recorded easements and licenses appurtenant to or included in the Village have been set forth on Exhibit E attached hereto. In addition, the Property is subject to all easements created or permitted by this Declaration.

ARTICLE XII

INSURANCE

12.01 Insurance Required to be Obtained by the Village Association.

The Village Association shall obtain and maintain all insurance required to be obtained and maintained by the Village Association under the Act and any additional insurance that the Executive Board deems necessary.

12.02 Casualty Insurance for Improvements.

(a) The Village Association shall obtain and maintain casualty insurance for all improvements located on or forming a part of the Common Elements and for all of the structural and mechanical components of the Homes.

(b) Owners shall be responsible for obtaining and maintaining any casualty insurance that they desire for any fixtures, furnishings and equipment located within their Homes.

12.03 Adjustments.

Any loss covered by insurance maintained by the Village Association shall be adjusted with the Village Association in accordance with the terms and conditions of the Act. The insurance proceeds for any such loss shall be paid in accordance with the terms and conditions of the Act.

ARTICLE XIII CASUALTY

13.01 Casualty to Common Elements.

The Village Association shall respond to any damage to, or destruction of, any Common Elements in accordance with the terms and conditions of the Act.

13.02 Casualty to a Home.

To the extent that the Village Association is not obligated to make any such repairs or replacements, each Owner of a Home shall repair or replace any damage to or destruction to the Owner's Home, as soon as is reasonably practical after such damage or destruction occurs.

ARTICLE XIV

CONDEMNATION

14.01 Condemnation of all Homes.

If the entire Village is taken by condemnation or similar proceeding, the Village shall terminate as of the date of the taking and any condemnation award payable in connection therewith shall be paid to the Village Association and then disbursed by the Village Association in accordance with the terms and conditions of the Act.

14.02 Condemnation of Fewer than all Homes.

If one or more Homes, but less than the entire Village, is taken by condemnation or similar proceeding:

- (a) any condemnation award payable in connection therewith shall be paid;
- (b) the Shares of Common Expenses allocated to those Homes shall be reallocated in accordance with the terms and conditions of the Act.

14.03 Condemnation of Common Elements.

(a) If any Common Element is taken by condemnation or similar proceeding, any condemnation award payable in connection therewith shall be paid to the Village Association and used by the Village Association:

- (i) first, to repair any damage to Common Elements resulting from the condemnation or similar taking; and
- (ii) second, for any other Common Expenses.

(b) The Village Association shall not be required to pay all or any portion of the condemnation award received for the condemnation or similar taking of a Limited Common Element to the Owners of the Homes served by such Limited Common Element, unless the Village Association deems it necessary or appropriate to do so.

ARTICLE XV SPECIAL DECLARANT RIGHTS

15.01 Improvements.

Declarant hereby reserves for itself, its successors and assigns the right, but is not obligated, to construct:

- (a) any improvements shown on the Plat, as the same may be amended from time to time; and
- (b) any other buildings, structures or improvements that Declarant desires to construct on the Property, the Additional Property or any other real estate owned by Declarant, whether or not the same ever become part of the Village.

15.02 Development Rights.

- (a) Declarant hereby reserves for itself, its successors and assigns:
 - (i) the right to add additional real estate to the Village as permitted pursuant to section 38-33.3-222 of the Act;
 - (ii) the right to add all or any portion of the Additional Property to the Village;
 - (iii) the right to create a maximum of 72 Homes and additional Common Elements on all or any portion of the Property, the Additional Property or any other real estate that Declarant may add to the Village pursuant to subsection 15.02(a)(i) above;
 - (iv) the right to subdivide any Home owned by Declarant;
 - (v) the right to combine any Homes owned by Declarant;
 - (vi) the right to convert any Home owned by Declarant into Common Element;
 - (vii) the right to withdraw from the Village any real estate owned by Declarant and located within the Property prior to the conveyance of a Home located within the Property to a Purchaser and, after the addition of any other real property to the Village, the right to withdraw any real estate owned by Declarant and located within

such portion at any time prior to the conveyance of a Home located in such portion to a Purchaser.

(b) In exercising any development right reserved hereunder, Declarant shall execute and record an amendment to this Declaration in accordance with the requirements of the Act.

15.03 Sales Offices, Management Offices and Model Homes.

Declarant hereby reserves for itself, its successors and assigns the right to maintain sales offices, management offices and models within any Home owned or leased by Declarant. Declarant also reserves for itself, its successors and assigns the right to construct and maintain signs advertising the Village on any and all Common Elements.

15.04 Merger.

Declarant hereby reserves for itself and its successors and assigns the right to merge or consolidate the Village with any other planned community.

15.05 Exercising Special Declarant Rights.

Declarant may exercise its Special Declarant Rights at any time prior to the later to occur of the date on which the Declarant Control Period expires or the date that is fifty years after the date on which this Declaration is recorded in the Eagle County Records. Declarant may exercise its Special Declarant Rights in any order, and no assurance is given as to the order in which Declarant will exercise its Special Declarant Rights. If Declarant exercises any Special Declarant Right with respect to any portion of the Property or the Additional Property, Declarant may, but is not obligated to, exercise that Special Declarant Right with respect to any other portion of the Property or the Additional Property. Notwithstanding anything to the contrary contained in this Declaration, Declarant may exercise any Special Declarant Right described in this Article XV and any other right reserved to Declarant in this Declaration, without the consent of the Village Association or of any of the Owners.

15.06 Interference with Special Declarant Rights.

Neither the Village Association nor any Owner may take any action or adopt any Rule or Regulation that interferes with or diminishes any Special Declarant Right, without

Declarant's prior written consent. Any action taken in violation of this Section 15.06 shall be null and void and have no force or effect.

15.07 Rights Transferable.

Declarant may transfer any Special Declarant Right reserved to it under this Article XV or under any other provision of this Declaration in accordance with the terms and conditions of the Act.

**ARTICLE XVI
MORTGAGEE PROTECTIONS**

16.01 Benefit of Mortgagees.

This Article establishes certain standards and covenants which are for the benefit of Mortgagees. This Article is supplemental to, and not in substitution of, any other provisions of this Declaration, but in the case of any conflict, this Article shall control.

16.02 Notice of Actions.

If requested in writing to do so, the Village Association shall give prompt written notice of the following to each First Mortgagee making such request:

- (a) any condemnation loss or any casualty loss which affects a material portion of the Common Elements or any Home in which an interest is held by the First Mortgagee;
- (b) any delinquency in the payment of Assessments which remains uncured for sixty days by an Owner whose Home is encumbered by a First Mortgage held by such First Mortgagee;
- (c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Village Association;
- (d) any proposed action which would require the consent of First Mortgagees as set forth in this Article; and
- (e) any judgment rendered against the Village Association.

16.03 Consent Not Required.

Pursuant to the Act, this Declaration does not require that all of a specified number or percentage of the lenders who hold security interests encumbering the Homes approve specified actions of the Homes or the Village Association as a condition to the effectiveness of those actions. Such actions include but are not limited to:

- (a) change the Shares of Common Expenses or votes in the Village Association of any Home;
- (c) subdivide, partition, or relocate the boundaries of any Home;
- (d) abandon, subdivide, partition, encumber, sell, or transfer the Common Elements (the granting of easements for public utilities or for other purposes provided for in this Declaration shall not be deemed transfers);
- (e) use hazard insurance proceeds for losses to any portion of the Common Elements for other than repair, replacement, or reconstruction of the Common Elements, except as provided by the Act; or
- (f) merge the Village with any other common interest community.

16.04 Notice of Objection.

Unless a First Mortgagee provides the Village Association with written notice of its objection, if any, to any proposed amendment or action requiring the approval of First Mortgagees within thirty (30) days following the receipt of notice of such proposed amendment or action, the First Mortgagee will be deemed conclusively to have consented to or approved the proposed amendment or action.

16.05 First Mortgagees' Rights.

(a) First Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Elements or improvements thereon, and may pay overdue premiums on hazard insurance policies, for the Common Elements. First Mortgagees making such payment shall be owed immediate reimbursement from the Village Association.

(b) A First Mortgagee shall be entitled to cure any delinquency of the Owner of a Home encumbered by its First Mortgage in the payment of Assessments. In that event, the First Mortgagee shall be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

16.06 Limitations on First Mortgagee's Rights.

No requirement for approval or consent by a First Mortgagee provided in this Article shall operate to:

- (a) deny or delegate control over the general administrative affairs of the Village Association by the Owners or the Executive Board;
- (b) prevent the Village Association or the Executive Board from commencing, intervening and/or settling any legal proceeding; or
- (c) prevent any insurance trustee or the Village Association from receiving and distributing any insurance proceeds in accordance with the requirements of the Article XII above.

16.07 Declarant Rights.

No provision or requirement of this Article XVI shall apply to any Special Declarant Rights or other rights reserved to Declarant in this Declaration.

**ARTICLE XVII
ENFORCEMENT AND REMEDIES**

- (a) Each provision of this Declaration with respect to the Village Association or the Common Elements shall be enforceable by Declarant or by any Owner by a proceeding for injunctive relief.
- (b) Each provision of this Declaration with respect to an Owner or a Home shall be enforceable by Declarant or the Village Association by:
 - (i) a proceeding for injunctive relief;
 - (ii) a suit or action to recover damages; or

(iii) in the discretion of the Village Association, for so long as any Owner fails to comply with any such provisions, exclusion of such Owner and its Guests from the use of any Common Elements and from participation in any Village Association affairs, including but not limited to voting at any annual or special meeting of Owners.

(c) In addition to the rights and remedies described in Section 17.01(b) above, if an Owner fails to perform or observe any covenant or condition on such Owner's part to be performed or observed under this Declaration or any other Village Association Document, the Village Association shall have the following rights and remedies:

(i) The Village Association may, but is not obligated to, cure such failure to comply at the Owner's sole cost and expense. If the Village Association cures any such failure to comply, the Owner shall pay to the Village Association the amount of all costs incurred by the Village Association in connection therewith within thirty days after the Owner receives a written invoice therefor from the Village Association.

(ii) The Village Association may, after notice and an opportunity to be heard, fine the Owner, as a Default Assessment, an amount determined by the Executive Board in its reasonable discretion for each violation and/or as established in the Rules and Regulations. The Owner shall pay any such fine to the Village Association within thirty (30) days after the Owner receives written invoice therefor from the Village Association.

(iii) With respect to an Owner's failure to pay an installment of any Assessment, the Village Association may accelerate the due date for the payment of the full amount of the Assessment.

(iv) The Village Association shall have all other rights and remedies available to it under this Declaration, at law or in equity.

(d) All rights and remedies of the Village Association shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy.

17.02 Attorneys' Fees.

In the event of any dispute under or with respect to this Declaration or any other Village Association Document, the prevailing party shall be entitled to recover from the non-prevailing party all of its costs and expenses in connection therewith, including, without limitation, the fees and disbursements of any attorneys, accountants, engineers, appraisers or other professionals engaged by the prevailing party.

17.03 Interest.

If an Owner fails to pay to the Village Association any Assessment or other amount due to the Village Association as and when the same becomes due, the Owner shall pay to the Village Association interest on such unpaid amount at the rate of eighteen percent (18%) per annum from the due date of such unpaid amount until the date paid.

17.04 Right to Notice and Hearing.

Whenever this Declaration or another Village Association Document requires that an action be taken after "notice and hearing," including, without limitation, the imposition of a Default Assessment under Section 7.06 or a fine imposed under Section 17.01(c)(ii), the following procedure shall be observed. The party proposing to take the action (e.g., the Executive Board or a committee or officer of the Village Association) shall give at least fourteen (14) days' prior written notice of the proposed action to all Owners whose interests would be significantly affected by the proposed action as reasonably determined by the proposing party. The notice shall be delivered personally, sent by overnight courier or mailed not less than fourteen (14) days before the proposed action is to be taken. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the party proposing to take the action, and all affected Owners, may give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the hearing to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the decision makers. Any affected Owner shall be notified of the decision in the same manner in which notice of the hearing was given. Any Owner having a right to notice and hearing shall have the right to appeal to the Executive Board from a decision of a proposing party other than the Executive Board by filing a written notice of appeal with the Executive Board within ten days after being notified of the decision. The Executive Board shall conduct a hearing within thirty (30) days thereafter, giving the same notice and observing the same procedures as were required for the original hearing.

17.05 Non-waiver.

Failure by Declarant, the Village Association or any Owner to enforce any covenant, condition, restriction, reservation, easement, assessment, charge, lien or other provision of this Declaration or in any other Village Association Document shall in no way be deemed to be a waiver of the right to do so thereafter.

**ARTICLE XVIII
TERM AND AMENDMENTS**

18.01 Term.

The covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth in this Declaration shall run with and bind the Property until the Declaration is terminated pursuant to Section 18.02 below.

18.02 Termination.

Subject to the rights of Mortgagees under Article XVI above, the Owners may terminate the Village and this Declaration, by the vote of sixty seven percent (67%) of the votes allocated to all Homes. If the necessary votes are obtained, the agreement of the Owners to terminate the Village and this Declaration shall be evidenced by a termination agreement or ratification thereof, executed by the required number of Owners in accordance with the Act. Upon recordation of the termination agreement in the Eagle County Records, the Village shall be terminated, this Declaration shall have no further force or effect, and the Village Association shall be dissolved. Notwithstanding the foregoing, the Owners may not terminate the Village during the Declarant Control Period without Declarant's prior written consent, which consent Declarant may withhold in its sole discretion.

18.03 Amendments.

(a) Except for provisions of this Declaration regarding the rights and obligations of Declarant, which may not be amended without Declarant's prior written consent, Owners may amend any provision of this Declaration at any time by a vote of at least sixty seven percent (67%) of the votes allocated to all Homes. If the necessary votes and consent are obtained, the Village Association shall cause to be recorded in the Eagle County Records an amendment to the Declaration in accordance with the terms and conditions of the Act. Notwithstanding the foregoing, the Owners may not amend this Declaration during the Declarant Control Period without Declarant's prior written consent, which consent Declarant may withhold in its sole discretion.

(b) Notwithstanding the terms and conditions of Section 18.03(a) above, the Declarant may amend this Declaration as expressly provided herein, without the approval of the Owners.

**ARTICLE XIX
MISCELLANEOUS**

19.01 Interpretation of the Declaration.

Except for judicial construction, the Village Association, by its Executive Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Village Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefitted or bound by the covenants and the provisions hereof.

19.02 Severability.

Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity and enforceability of any other provision hereof.

19.03 Disclaimer of Representations.

Notwithstanding anything to the contrary contained in this Declaration, Declarant makes no warranties or representations whatsoever that the plan presently envisioned for the complete development of the Village can or will be carried out or that any land now owned or hereafter acquired by Declarant is or will be subject to this Declaration, or that any such land, whether or not it has been subjected to this Declaration, is or will be committed to or developed for a particular use, or that if such land is once used for a particular use, that such use will continue in effect.

19.04 Reference to Declaration and Deeds.

Deeds to and instruments affecting any Home or any other part of the Village may contain the provisions set forth herein by reference to this Declaration, but regardless of whether any such reference is made in any deed or instrument, each and all of the covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth herein shall be binding upon the grantee-owner or other person claiming

through any deed or other instrument and his or her heirs, executors, administrators, successors and assigns.

19.05 Successors and Assigns of Declarant.

Any reference in this Declaration to Declarant shall include any successors or assignees of Declarant's rights and powers hereunder on the condition that Declarant's rights and powers may only be assigned by a written recorded instrument expressly assigning such rights and powers.

19.06 Captions and Titles.

All captions and titles of headings of Articles and Sections in this Declaration are for the purpose of reference and convenience and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

19.07 Exhibits.

All exhibits attached to this Declaration are a part of, and are incorporated into, this Declaration.

19.08 Governing Law.

This Declaration shall be governed by and construed in accordance with the laws of the State of Colorado.

19.09 Notices.

All Owners of each Home shall have one and the same registered mailing address to be used by the Village Association or other Owners for notices, demands, and all other communications regarding Village Association matters. The Owner or the representative of the Owners of a Home shall furnish such registered address to the secretary of the Village Association within ten (10) days after transfer of title to the Home to such Owner or Owners. Such registration shall be in written form and signed by all of the Owners of the Home or by such persons as are authorized to represent the interests of all Owners of the Home. If no address is registered or if all of the Owners cannot agree, then the address of the Home shall be deemed their registered address of the Owner(s), and any notice shall be deemed duly given if delivered to the Home. All notices and demands intended to be served upon the Village Association shall be sent

to the following address or such other address as the Village Association may designate from time to time by notice to the Owner(s):

The Village of Cotton Ranch Homeowners' Association
P.O. Box 180
Eagle, CO 81631

IN WITNESS WHEREOF, Declarant has caused its name to be signed by the signature of its duly authorized official as of this 31 day of December, 2014.

LAND BLACK BEAR, LLC, a Colorado limited liability company.

BY: Landreth Companies, LLC, a Colorado limited liability company.

By: _____

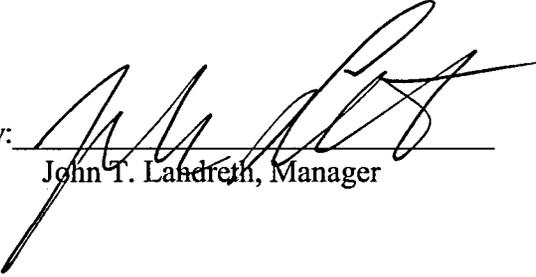

John T. Landreth, Manager

EXHIBIT A

**PARCEL A, THE VILLAGE AT COTTON RANCH, FILING NO.1 RE-PLAT,
ACCORDING TO THE PLAT RECORDED SEPTEMBER 10, 1997 IN BOOK 736
AT PAGE 771, COUNTY OF EAGLE, STATE OF COLORADO.**