

2008

23 PAGE DOCUMENT

DECLARATION OF PROTECTIVE COVENANTS
FOR
GOLD LAKE ESTATES SUBDIVISION
LOMA, COLORADO

Tony Lee Brach and Karol L. Ramstetter (the "Declarants") are the current owners of the property located in Loma, Colorado (the "Property") and have formed a joint venture for the development of the subdivision known as Gold Lake Estates Subdivision (the "Subdivision"). Declarants wish to impose covenants, conditions and restrictions upon the use of the Property for the benefit of any and all parties now and subsequently owning all or any portion of the Property.

THEREFORE, Declarants declare that the Property, and every portion of it, is and shall be held, sold and conveyed subject to the covenants, conditions, restrictions and agreements contained in this Declaration, which:

1. Are for the purpose of protecting the value and desirability of the Property.
2. Shall run with, and be appurtenant to, all of the Property except as expressly stated otherwise; and
3. Shall be binding upon and inure to the benefit of all persons or entities now owning or subsequently acquiring any right, title or interest in all or part of the Property, together with each of their heirs, personal representatives, successors in interest and assigns.
4. Additionally, these covenants have not been reviewed or approved by Mesa County or any governmental or quasi-governmental entity. Therefore, all alterations of the Property must comply with applicable zoning, code and conditions of approval by the governing municipality.

ARTICLE I

Definitions

Section 1.1 "Articles" shall mean the Articles of Incorporation of the Association, as amended from time to time.

Section 1.2 "Association" shall mean and refer to the Gold Lake Estates Homeowners Association, a Colorado nonprofit corporation.

Section 1.3 "Association Water" shall mean and refer to all rights to water from the non-adjudicated reservoir in this subdivision and any other water or water rights, ditch or ditch rights, reservoir or water storage rights appurtenant to or used in connection with any portion of the Subdivision or owned by the Association. Such water rights as are deemed required for the needs of the subdivision will be conveyed from the Declarants to the Association.

Section 1.4 "Board" means the Board of Directors of the Association and shall constitute the Executive Board as defined in CCIOA.

Section 1.5 "Building Envelope" means that part of a lot that has been designated by the Declarants on the Map, as defined below, as the area that must be used for a Residence, as defined below, on that Lot, as defined below.

Section 1.6 "Bylaws" mean Bylaws of the Association as amended from time to time.

Section 1.7 "CCIOA" means the Colorado Common Interest Ownership Act presently codified at C.R.S. 38-33.3-101, et seq, which may subsequently be amended.

Section 1.8 "Common Area" or "Common Areas" shall mean that portion of the Property, including any Improvements, as defined below, thereon, not including the Lots as such Common Areas are designated on the Map. The conveyance of all parts of the Common Areas reflected on the Map shall be transferred effective as of the date of the recording of the Map.

Section 1.9 "Common Expenses" shall mean expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves. By way of example and not limitation, such expenses include: insurance costs; water assessments to the Association; construction, maintenance, and repair of all Association fences; all aspects of landscaping and care of Common Areas and any other portion of the Property controlled or maintained by the Association (such as the wetlands and open space); and payment of all utilities, charges associated with any Improvements owned or operated by the Association (such as Irrigation Facilities, Association Water and any street lighting owned or controlled by the Association).

Section 1.10 "Declarants" shall mean and refer to the Joint Venture of Tony Lee Brach and Karol L. Ramstetter, their successors and assigns.

Section 1.11 "Declaration" means this Declaration of Protective Covenants.

Section 1.12 "Design Review Committee" or "DRC" shall mean and refer to that Design Review Committee referred to in Article III of this Declaration.

Section 1.13 "Engineer" shall mean a professional engineer, licensed and practicing in the State of Colorado.

Section 1.14 "Improvements" shall mean and refer to any and all Residences, as defined below, and any other structures located in, under, or upon the Property, including, but not limited to, fences, driveways, garages and outbuildings; shrubs, plants, landscaping of all types; irrigation ponds, pipelines and sprinklers, drainage and detention/retention facilities; streets, curbs and gutters; and all other utility installations such as electric, gas, telephone, cable television, sewer and domestic water lines.

Section 1.15 "Irrigation Facilities" shall mean and refer to all Improvements, equipment, facilities, and other real and personal property owned, operated or maintained by the Association for the purpose of delivering Association Water and any other water that the

Association may be obligated to deliver by contractual obligation or otherwise. Such Irrigation Facilities shall include, but not be limited to any ponds, dams, reservoirs, waterfalls or other water-holding or water-circulating equipment or Improvements, plus all pumps, pipes, pipelines, riser, connectors, controls, siphons, filter, valves and related parts, equipment and material located in, under, or upon the irrigation and drainage easements within the Subdivision, or elsewhere outside of the Subdivision for the purpose of serving the Subdivision and the Lots with Association Water.

Section 1.16 "Lot" (or "Lots") shall mean and refer to each residential lot shown on the Map, as that Map may be amended from time to time as part of the Special Declarants Rights described in Article XI.

Section 1.17 "Map" means the plat of the Subdivision recorded in the Mesa County records, a true and correct copy of which is attached to this Declaration, pursuant to the requirements of CCIOA.

Section 1.18 "Owner" shall mean the purchaser of any Lot in the Subdivision.

Section 1.19 "Residence" shall mean the home constructed by the Owner on a Lot in the Subdivision.

ARTICLE II

General Restriction on Use

Section 2.1 Resubdivision Prohibited. Resubdivision of any Lot shown on the Map is prohibited.

Section 2.2 Use of Property. No portion of any Lot or Improvement shall be used for any purpose other than for residential purposes or home occupations as authorized in this Declaration. No commercial use of any of the Property shall be allowed, except as authorized by the Declaration or the Board; provided, however, the Declarants shall be entitled to maintain an office on the Property for the development of lots, for the construction of improvements and for the marketing of the project.

For purposes of this section, "home occupations" shall mean an occupation by the resident conducted totally within the Residence which does not entail the employment of third persons on the Lot, and does not entail the delivery of goods or services to customers upon the Lot. The business activity may not have more than five (5) visits per day and no more than three (3) people per visit, or as such business activity is defined in the zoning ordinance of Mesa County from time to time, whichever is more restrictive.

No guesthouse or portion of a dwelling may be rented, however, nothing shall prevent the Owner from renting or leasing the entire Residence and guesthouse to a single family. However, the Owner is responsible to the Association for the tenant and the tenant shall be subject to this Declaration, the Articles, Bylaws and Rules and Regulations.

Section 2.3 Approvals. All construction or work of any kind or nature occurring on a Lot, including, but not limited to, original construction of all Improvements, including landscaping and any additions, external modification, design changes or color changes to such Improvements, major landscape changes, and driveway changes must be submitted to the DRC for approval in accordance with the provisions of this Declaration before work commences.

Section 2.4 Nuisances Prohibited. No noxious or offensive activities shall take place or be permitted upon any of the Lots, nor shall anything be done on any portion of the Subdivision, which may be or become an annoyance or nuisance to the Owner of any Lot. No trash, junk cars, weeds or other unsightly, unhealthy or dangerous items or conditions shall be permitted to remain on any portion of the Subdivision. No portion of the Subdivision shall be used or maintained as a dumping ground for rubbish. All noxious weeds will be eradicated by the Owners of the Lots in the Subdivision and, if not by the Owners, the Association will eradicate said weeds and assess fees against the Owners of the Lot.

Section 2.5 Animals and Pets. No animals, livestock or poultry of any kind shall be raised for consumption or bred on any lot. All pets must be neutered in a timely fashion. All pets shall be under the control of their Owner, whether by containment on the Owner's Lot or on a leash. No pet shall be allowed to run at large, endanger or harass persons, property or other animals or constitute a nuisance or annoyance to other Lot Owners or Subdivision occupants. The Board, when requested by any Owner, shall have the final authority to determine whether any animal or pet is a nuisance to any other Owner. Owners are responsible for collecting and properly and safely disposing of their pet's waste timely. In the Common Area, the Owner must collect waste immediately. Any livestock kept on a Lot will be housed with adequate shelter, food and water, all waste will be collected and safely disposed of daily. Any livestock kept on the Lots will have the sole purpose of being a "pleasure animal". No more than 2 livestock animals per acre will be allowed.

Section 2.6 Trash, garbage or other waste shall not be dumped, kept or allowed to accumulate on any Lot except in closed, sanitary containers. All containers and equipment for storage or disposal of such materials shall be regularly emptied in a lawful manner and in compliance with this Declaration, shall be kept in a clean and sanitary condition and shall be kept inside a closed structure or otherwise screened from view by the public or from neighboring Lots, except to make the same available for collection or delivery. No incinerators shall be permitted in the Subdivision. All efforts will be put forth by Owners to make trash inaccessible to animals, domestic or wild.

Section 2.7 There will be no structure of a temporary nature used as a residence including, without limitation, trailers, tents, recreational vehicles, shacks, garage, or other outbuildings. An exception will be made during the actual construction of a Residence. Temporary buildings necessary for the storage of materials may be used and must be maintained by the contractor.

Section 2.8 No sign, graphic or advertising device shall be placed anywhere in the

Subdivision except one sign not larger than 12 inches by 24 inches showing the Owner's name and/or address and one sign of not more than four square feet advertising a Lot or Residence for sale. This provision shall not limit or preclude street, road identification signs or traffic control signs or devices or such other signs or markers as the Board may determine in its discretion are appropriate for the benefit of the Subdivision.

Section 2.9 No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted or undertaken on any portion of the Subdivision, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on any portion of the Subdivision.

Section 2.10 Except for satellite television receivers of a diameter less than thirty (30) inches or otherwise as approved by the DRC, no antenna for transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used, or maintained on any Lot outside of the Residence on that Lot. A satellite dish must be installed on the ground and completely screened from view by solid fencing complying with the requirements of the DRC.

Section 2.11 No hazardous or flammable materials will be stored anywhere in the Subdivision.

Section 2.12 White, light color or highly reflective roofing, whether because of color or type of material, which may, in the opinion of the DRC, result in glare into other Residences in the Subdivision, shall not be allowed in the Subdivision. Changes in color of or material on a roof after the Residence is built must first be approved by the DRC. Foil or other light reflecting material may not be put in windows or glass areas of a Residence. Windows designed to be reflective are not allowed.

Section 2.13 Exterior lighting shall be designed and placed to avoid directly illuminating any Lot(s) other than the Lot on which the lighting is located. Motion sensors or similar devices are encouraged for security lighting.

Section 2.14 Noise caused by improperly muffled vehicles, motors or machinery of any kind will not be permitted in the Subdivision. Reasonable operating hours as determined by the Board for any construction, landscaping or similar equipment must be adhered to.

Section 2.15 Mailboxes and newspaper receptacles must be approved by the DRC.

Section 2.16 All improvements in the Subdivision shall be new or newly constructed. No previously erected building, structure or improvement shall be moved to or placed upon any Lot. No modular or manufactured homes and no mobile homes, trailer homes, trailers, teepees, tents, shacks, sheds, barns or movable structures shall be permitted as a Residence within the Subdivision.

Section 2.17 No site work or construction of or relating to any Improvement (the "Project") may commence on any Lot (including preliminary site clearing, grubbing, grade alteration, storing of material, foundation excavation, etc.) until the Project has

received an approval letter from the DRC and a building permit has been issued. All Project construction shall be completed no later than 12 months after the issuance of the letter of approval from the DRC. If construction is not started, the Owner is responsible for the Lot's weed control and other responsible ownership maintenance.

Section 2.18 All utility lines within the Subdivision shall be underground.

Section 2.19 All fencing must be approved by the DRC. Wood, masonry and wrought iron fencing are encouraged. Fences will be built on lot lines. Adjoining parties are to cooperate in a prudent manner on the choice of fence and the sharing of cost.

Section 2.20 The landscaping of each Lot which will be visible from any street or any other Lot shall be completed by or on behalf of the Owner of such Lot in accordance with the plans approved by the DRC and within 90 days from the date on which the Residence on such Lot is occupied or permitted for occupancy, whichever is earlier; provided that, for good cause, the DRC may allow an Owner a one-time extension of time for an additional 90 days in which to comply with this provision.

Each owner shall keep, maintain and repair the Owner's Lot and the Improvements thereon in a neat, clean, cultivated, attractive and well-maintained condition, free from the accumulation of trash and debris. If any Owner fails to keep and maintain his Lot or Improvements in accordance with this provision, the Board may contract for such maintenance, repairs or restoration and assess the cost thereof to the Owner and will become a lien against that Lot. The Board will proceed with action only after a 15 day notice to the Owner. The 15 days will begin from the date the notice is hand delivered or certified through the U. S. Postal Service.

Section 2.20.1 Clothes lines, service yards, outside storage of materials of any kind or nature, air conditioners, coolers, pool filters and pool heaters, meters, storage sheds, gas, electric and water lines, firewood storage, building supplies, grounds or repair material storage, lawn and yard tools and equipment and other temporary or permanent equipment must be screened or completely stored in areas approved by the DRC and hidden from the view of streets and other Residences.

Section 2.21 All Residences shall be constructed to provide sufficient off-street parking to accommodate not less than six automobiles, exclusive of the garage. Driveways shall be constructed of asphalt, concrete, or other hard surface. Dirt or gravel driveways are expressly prohibited.

On street parking of any vehicle, shall be limited to temporary parking. Vehicular maintenance or repair, which renders any vehicle inoperable for more than 24 hours, is prohibited on any street, driveway, yard or other visible location in the Subdivision.

All Residences shall be constructed with an attached garage large enough to accommodate at least two (2) 18' long side-by-side motor vehicles.

Any equipment placed on the roof of a structure on a Lot must be screened or hidden

from view of the street or other Residences.

ARTICLE III
Architectural Design & Minimum Construction Standards

Section 3.1 The quality of the architecture within the Subdivision is very important to maintaining the integrity, appearance, quality and value of the Subdivision and the Lots. Standards have been adopted and are interpreted by a majority of the DRC.

Exterior Design. Alternative construction deemed "radical" by the DRC would not be allowed; examples would be (but not limited to) dome homes, A-frame homes and kit homes. The DRC has the authority to determine what may be an acceptable home design.

Minimum Square Footage. The total finished living area of any Residence of one level shall be not less than 2,200 square feet. The total finished living area of any Residence having more than one level shall not be less than 1,800 square feet on the main level and not less than 2,600 square feet total. If the residence shall be a split-level, the greatest outside measurement, exclusive of open porches and garages, shall be used to determine the square footage and different floor levels which are superimposed upon each other shall be included only once in such measurement. The square footage shall be determined by using outside measurements for finished living area totally above ground, such that garages, porches, patios, basements and garden levels shall be excluded.

Any outbuildings must match the Residence in color and design compatibility.

No Residence shall exceed 35 feet in height measured from average grade at the center of the Residence, to the highest point of the roof.

All Residences shall be constructed of manufactured brick, brick veneer, stone, cultured stone, manufactured decorative block, natural wood siding, stucco or a combination of these materials. Unfinished cement block is expressly prohibited.

All roofing will be best quality architectural, tile, slate, or specially approved by the DRC.

All metal flashing, vents, gutters, downspouts, wires or pipes must be matched to the roof, the wall color or of the same materials.

Section 3.4 The DRC shall consist of three (3) individuals, each of whom may be an Owner, a manager, member, director, shareholder or general partner of a legally constituted entity that is an Owner. A majority of the DRC may designate in writing a representative to act for it.

Section 3.5 No exterior improvement shall be installed, erected or altered in the Subdivision, except upon compliance with the Article III and in accordance with the submission of plans and approval of those plans by the DRC. Failure of any Owner to comply with this Article III shall be deemed a violation of the Declaration, entitling the

Association, or any Owner, to exercise enforcement power under this Declaration, CCIOA, or as otherwise permitted by law. No improvements shall be changed, altered or modified subsequent to the approval of the DRC.

Section 3.6 It is recommended that all plans be submitted as preliminary concept drawings to the DRC. This will minimize the potential of an Owner investing significant efforts and funds into the final design of a plan that may not be approved.

Duplicate copies of plans and specifications relating to an Improvement shall be submitted to the DRC for review and final approval. Plans shall contain, without limitation, plot plans showing layout, including setbacks, flow and manner of surface drainage, finish and natural grade elevations, floor plans showing overall dimensions, roof plans showing pitch, roof materials, colors, exterior elevations showing doors, windows and exterior materials and colors, landscaping plans showing the location and types of all plantings, including trees, shrubs, bushes and grass and all other features reasonable or necessary to explain any feature or component of the Improvement or to enable the DRC to properly consider and determine approval or disapproval of such Improvement. Plans that are insufficient for the exercise of good judgment will be disapproved.

An Owner may make application to the DRC for a variance from any provision of the Declaration. The application must reference the specific provision for which the variance is requested and demonstrate either a hardship or condition of the variance that would meet or exceed the design intent of the Declaration. It is in the sole discretion of the DRC to deny, modify or approve any variance applications; approval must be by unanimous vote of all members of the DRC. Any failure to approve a variance request shall be deemed to be a denial.

Section 3.7 In addition to reviewing all technical aspects of the plans, the DRC shall consider the aesthetic and functional design, appearance and impact of any improvement. Guidelines will be the overall nature and character of the site and appearances of structures, including orientation with regard to sun, wind, view and privacy and the consistent quality and use of exterior materials. The harmony of all Improvements and landscaping, including alterations, with natural surroundings and existing Improvements, considering external design, materials, color, siding, height, topography, foliage, grading and ground elevation. The use of earthen tones is recommended and encouraged and the use of bright colors in large amounts is prohibited.

Section 3.8 The DRC shall approve or disapprove, in writing, all plans within thirty days of submission. If the DRC fails to issue a decision within such 30-day period, the

Owner shall make a written request for a decision to the DRC. The DRC shall have fifteen days from receipt of such written request to render a decision.

Section 3.9 The DRC shall not be liable for damages to any Owner or other person submitting requests for approval or to any Owner or other person within the Subdivision due to any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to any request. The actions of the DRC shall be deemed conclusively binding upon the Owners. Any Owner submitting, or causing to be submitted, any plans to the DRC agrees and covenants on behalf of himself and his heirs, successors, legal representative and assigns that he will not bring any action or suit at law or in equity against the DRC or its members, advisors, employees or agents for any act or omission of the DRC.

Section 3.10 The DRC shall keep records of its actions for a period of five (5) years, including records of plans, approvals or disapprovals, and other actions taken by it pursuant to this Declaration.

ARTICLE IV

The Association Membership, Voting Rights, Declarant Controls

Section 4.1 Every Owner of one or more Lots in the Subdivision shall be entitled and required to be a member of the Association, subject to the voting rights provisions of this Article. No person or entity other than an Owner of one or more Lots in the Subdivision may be a member of the Association.

Each Lot shall be allocated one (1) vote in the Association, subject to terms of this Article.

In the election of directors, cumulative voting shall not be allowed.

Membership in the Association shall be appurtenant to and inseparable from a Lot. Membership in the Association may not be transferred except in connection with, and at the time of the transfer of, ownership of a Lot.

Notwithstanding anything stated elsewhere in this Declaration, sixty (60) days after conveyance of seventy five percent (75%) of the Lots to Owners other than Declarant, Declarants may, at their option, appoint members of the Board, subject to the limitations stated in this Article.

At termination of the Declarants control, the Owners shall elect a Board of at least three (3) members, at least a majority of whom must be Owners, other than Declarants or designated representatives of Owners, other than Declarants. The Board so elected and officers shall take office upon termination of the period of Declarants' control.

Notwithstanding anything to the contrary stated elsewhere in this Article IV, by a vote of majority of all Owners present and entitled to vote at any meeting of the Owners at which a quorum is present, any member of the Board may be removed with or without cause.

ARTICLE V COVENANT FOR ASSESSMENTS

Section 5.1 Creation of the Lien and Personal Obligation of Assessments.

Each Owner of any Lot by acceptance of a deed for that Lot, whether or not it shall be so expressed in that deed, is deemed to covenant and agree to pay the Association: (a) all assessments or charges levied against that Lot by the Association; and (b) all fees, charges, late charges, attorneys fees, fines, interest and collection costs as set forth in CRS 38-33.3-316 or any other provision of CCIOA, this Declaration, the Articles and Bylaws ((a) and (b) collectively being the "Assessments"). All Assessments from the time such Assessments become due, shall be a charge on and a covenant running with the land and shall be continuing lien on the Lot from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations. Each such Assessment shall also be the joint and several personal obligation of each person and entity that was the Owner of the Lot at the time when the Assessment became due. This personal obligation shall not pass to an Owners' successors in title unless expressly assumed by them. No Owner may be exempt from liability for Assessments by waiver of use or enforcement of Common Expenses, Association Water, Irrigation Facilities, or other assets or benefits of the Association, or by abandonment of a Lot or Residence.

Section 5.2 The Assessments levied by the Association shall be used exclusively for: Common Expenses; to promote the health, safety and welfare of the residents in the Subdivision; or for the benefit of the Common Area or Association Water, or for any other purpose of the Association, as those purposes are specified by the Articles or Bylaws (as amended from time to time) or as otherwise authorized by CCIOA.

Section 5.3 The initial Assessment of the Association shall be fixed in an amount set by and made upon the resolution of the Board based upon the Association's Budget adopted or set forth in Article VI.

After the Association has made the initial Assessment, Assessments shall be made no less frequently than annually based on a budget adopted by the Association, as set forth in Article VI.

Until the Board makes an Assessment, Declarant shall pay all Common Expenses.

If, at any time during the fiscal year, the regular Assessment proves inadequate for any reason, including nonpayment of any Owner's share, the Board may levy a further Assessment in the amount of such actual or estimated inadequacy. The special Assessment shall be assessed to the Owners by dividing the total estimate by the total number of Lots and assessing the resulting amount to the Owner of each Lot, such

Assessment to be paid either in equal monthly installments over the balance of the remaining fiscal year, or in lump sum upon billing as the Board shall determine.

The Board may levy an Assessment against any Owner as a result of such Owner's failure to maintain his Lot, rebuild damaged Improvements or to restore or maintain his Lot or the Improvements situated thereon. Such Assessment shall be for the purpose of reimbursing the Association for its actual costs and expenses incurred for the repair, maintenance, or restoration of such Owner's Lot or Improvements, and shall be due and payable to the Association when levied.

Section 5.4 The first Assessment shall be adjusted according to the number of months remaining in the calendar year for which the Assessment is made, if less than a full year. Thereafter, the Board shall fix the amount of the annual Assessment against each Lot at least thirty (30) days in advance of each annual Assessment period. Written notice of the annual Assessment shall be sent to every Owner. The Board shall establish the due dates for payment of each Assessment. The Association shall, upon demand or set forth in CCIOA, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid.

Section 5.5 Except as otherwise stated in this Article, each Lot shall be allocated a fraction of the Common Expenses of the Association in which the numerator is one and denominator is the number of Lots then in the Subdivision.

Any Common Expense, or portion of any Common Expense, benefiting or caused by fewer than all Lots shall be assessed against the Lots benefited by or causing the Common Expense in the degree to which such Lots are benefited by or cause such Common Expense, as determined by the Board.

Association Water and Irrigation Facilities expenses shall be prorated by the Board among the Lots based on the amount of water provided to each individual Lot. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate not to exceed twenty-one percent (21%) per annum set annually by the Board at the time the Budget is determined, or if no interest rate is then set, at the rate of twelve percent (12%) per annum.

The lien for Assessments shall have the priority specified in CCIOA.

ARTICLE VI
Budget and Records

Section 6.1 The Board shall cause to be maintained a full set of books and records showing the financial condition of the affairs of the Association in a manner consistent with generally accepted accounting principles. All books, records and papers of the Association shall be available for inspection and copying by any Owner or the Owner's representative during regular business hours at the principal office of the Association. The Board may establish reasonable rules concerning notice to be given the custodian of the records by anyone desiring to inspect them, and payment of costs of reproducing any documents requested by any member.

Section 6.2 The Board shall cause to be prepared no less than annually an operating budget, balance sheet and cash flow statement for the Association.

Section 6.3 Within thirty (30) days after adoption of any proposed budget, the Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary.

Section 6.4 Unless at the meeting described in Section 6.3 above, Owners representing eighty percent (80%) of all Lots reject the budget, the budget is ratified, whether or not a quorum is present at such meeting.

Section 6.5 In the event that the proposed budget is rejected, the budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

Section 6.6 As part of each annual budget, the Board shall include an amount which, in its reasonable business judgment, will establish and maintain an adequate reserve fund for the replacement of any personal property, fixtures and Improvements required to be operated or maintained by the Association based upon age, remaining life, replacement cost and any other relevant factors.

ARTICLE VII
Association Powers

Section 7.1 The Association shall have all rights, powers and authority specified or permitted by: (a) CCIOA; (b) any other applicable law; (c) this Declaration; and (d) the Articles and Bylaws, to the extent not inconsistent with (a), (b), or (c) herein.

Section 7.2 The Association may take judicial action against any Owner to enforce compliance with any provisions of the Declaration, the Articles, Bylaws or Rules and Regulations (together, the "Subdivision Documents") and may obtain mandatory or injunctive relief, may obtain damages for noncompliance and exercise any other right or remedy for enforcement of the Subdivision Documents permitted by law. All of such

right and remedies of the Association shall be cumulative.

Section 7.3 The Association shall have the right to encumber, dedicate, or convey all or any part of the Common Area or the Association interest in Association Water or any other Association asset. However, no such encumbrance, dedication or conveyance shall be effective except by the vote or agreement of eighty percent (80%) of all Owners and an instrument properly reflecting such encumbrance, disclosure or conveyance has been properly recorded.

Section 7.4 Any Owner may delegate, subject to the Bylaws of the Association, his right of enjoyment to the Common Area and use of Association Water to the members of his family residing with him, his tenants or contract purchasers who reside on the Lot owned by the Owner.

ARTICLE VIII Association Water

Section 8.1 The Board shall have the exclusive authority to allocate, deliver, manage and control the use of Association Water. The Board shall have the exclusive authority to operate, repair and maintain the Irrigation Facilities, if installed by the Association. The Board authority shall include (without limitation) the promulgation of rules, regulations, policies and procedures, not inconsistent with this Declaration, concerning the application and use of Association Water, including conservation measures and measures to reduce peak demand.

Section 8.2 All Irrigation Facilities shall be overseen by the Association. Each Owner grants to the Association reasonable ingress and egress over, under and across all easements shown on the Map for the purpose of operating, repairing or maintaining Irrigation Facilities, if installed by the Association. The Association shall have the authority to remove or alter any structure or Improvement which shall interfere with the ownership, operation and maintenance of the Irrigation Facilities, the cost of such removal to be borne by the Owner of the interfering Improvement or structure.

Section 8.3 There will not be any unreasonable withholding of access to irrigation water by any Owner and access to irrigation must be allowed between Lots.

Section 8.4 The Declarants shall transfer and convey to the Association all Association water rights. The nature and amount of the water rights to be conveyed to the Association shall be determined by the Declarant but shall be in an amount sufficient to provide adequate water to the Subdivision for the maintenance of Common Areas and to provide adequate irrigation water to the Lots. The Subdivision is being developed as an arid subdivision with limitations on the water available. Landscaping will be desert landscaping or landscaping that requires small amounts of water. The DRC shall prepare regulations and guidelines on the nature and extent of landscaping permitted in the Subdivision and will prepare regulations for the use of Association Water. Modifications may be made to such regulations at any time by the DRC; however, if such modifications result in greater restrictions on landscaping or water consumption, then any Lots already

developed under the prior regulations will be allowed to remain without modification.

ARTICLE IX Easements

Section 9.1 The Association shall have the right to utilize all utility easements shown on the Map of the Subdivision as amended from time to time, for the purposes specified in this Declaration and also for any other Association purposes or in the exercise of any powers granted to the Association in its Articles, Bylaws or as permitted by law.

Section 9.2 Any easement over, under or across the property outside of the Subdivision transferred by Declarants to the Association before or after the date of this Declaration, whether or not so stated in the deed of that easement, shall be subject to all uses to which Declarants or their successors and assigns might put the Property on which the easement is granted at any time, including by way of example and not limitation, use of that Property for the ownership, construction, maintenance, operation, repair, removal, replacement, resizing, alteration, remodeling or renovating of facilities for the deliver and storage of irrigation water and underground pipelines, pumps, valves, gates and other structures, facilities or improvements for the storage or delivery of irrigation water to Property owned on or after the date of this Declaration by Declarants or their successors or assigns.

ARTICLE X Limitation of Liability and Insurance

- 10.1 Neither the Association, any member of the Board, any officer of the Association, nor any agent or employee of the Association shall be liable to any Owner or other person or entity for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without willful or intentional misconduct. The Association shall indemnify and hold harmless any member of the Board, the DRC, any officer of the Association or any agent or employee of the Association to the fullest extent of the law, including by way of example only, from any and all cost, damages, charges, liabilities, obligations, fines, penalties and claims, demands, or judgments and any and all expenses, including, without limitation, attorney's fees, incurred in the defense or settlement of any action arising out of or claimed on account of any act, omission, error or negligence of such person or of the Association, the Board, the DRC or any committee of the Association, provided that such person has acted in good faith and without willful or intentional misconduct.
- 10.2 Notwithstanding the duty of the Association to maintain and repair parts of the Property, the Association shall not be liable for injury or damage, other than the normal costs of the maintenance and repair, caused by any latent condition of the Property or by the conduct of other Owners or persons or by casualties for which insurance pursuant to the Declaration is not required, or for which insurance is not provided by the Association.

- 10.3 The Association shall be required and empowered to obtain and maintain the following insurance so far as such insurance coverage is obtainable:
1. Property insurance on the Common Areas and also on property that might become Common Areas for broad form covered causes of loss; except that the total amount of insurance must be not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavation, foundations and other items normally excluded from property policies.
 2. Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Areas. Declarants shall be included as an additional insured in such Declarants' capacity as an Owner, Board Member and Member of the DRC. Owners shall be included as an additional insured but only for claims relating to the management of the Common Areas. The insurance shall cover claims of one or more insured parties against other insured parties.
 3. Insurance policies carried pursuant to both immediately preceding subsections of this Article must provide that:
 - a. Each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Areas or membership in the Association;
 - b. The insurer waives its rights to subrogation under the policy against any Owner or member of his household.
 - c. No act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and
 - d. If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.
 4. Worker's Compensation coverage upon employees.
 5. Fidelity bonds to protect against dishonest acts on the part of those who handle receipt and disbursement of Association funds. Such bonds shall name the Association as obligee and be written in an amount not less than Fifty Thousand Dollars (\$50,000.00); contain waivers of any defense based upon the exclusion of person serving without compensation from any definition of "employee" or similar expression; provide that no modification in any substantial manner or cancellation shall be had without thirty (30) days prior written notice to the Association.
 6. Such other insurance as the Board may deem desirable for the benefit of the Owners or the Association.
 7. Insurance policies issued to the Association do not obviate the need for Owners to obtain insurance for their own benefit.

ARTICLE XI
Special Declarant Rights

- 11.1 Declarant reserves the right to add or withdraw real estate from the Property covered by this Declaration and to create lots and common elements within the Subdivision.
- 11.2 Declarant reserves all special Declarant rights available under CCIOA, currently codified at Section 38-33-103(29), C.R.S.
- 11.3 No assurance is given concerning the creation, size, location or continued existence of Lots, Common Area, casement or improvements, except those shown on the Map of this Subdivision.
- 11.4 Except as restricted by CCIOA or other applicable Law, Declarant may assign (from time to time) some or all of Declarant's rights or obligation or liability.

ARTICLE XII
General Provisions

- 12.1 The Association shall have the right to impose Rules and Regulations upon the Owners concerning use of the Common Areas, Association Water and any other Association property, and otherwise as set forth in the Bylaws.
- 12.2 The Association or the Owner of any Lot may enforce any provision of this Declaration in an action at law or in equity. The relief sought may include damages for any violation, or injunctive relief, or both. This listing of possible remedies is not exclusive. It is the intent of the Declarant that the Association or an Owner may obtain any relief available under the then applicable law or the provisions of this Declaration for violation of any provision of this Declaration. All such rights and remedies shall be cumulative.
- 12.3 In litigation or other proceeding concerning enforcement or interpretation of this Declaration, the prevailing party shall be entitled to recover reasonable attorneys fees and court costs, in addition to any other relief available to that party.
- 12.4 The provisions of this Declaration shall each constitute a covenant running with the land applicable to all of the Lots, binding Declarant and all persons and entities claiming by, through, or under it in perpetuity or until revoked in accordance with the applicable provisions of Section 38-33.3-218 C.R.S. and all subsequent amendment thereto.
- 12.5 Termination of this Declaration and the common interest community shall only take place in accordance with C.R.S. Section 38-33.3-218, as amended from time to time, provided that no such termination shall occur except upon a vote of ninety percent (90%) of the Association.
- 12.6 Any provision of this Declaration in conflict with the provisions of CCIOA shall be void and of no effect.
- 12.7 Any notice or demand required or permitted by this Declaration shall be in writing and shall be sent by United States first class mail, postage prepaid, to the address of the Owner of the Lot(s) to receive notice at the address provided by the Owner for that purpose to the secretary of the Association. If the Owner fails to provide an address to the secretary, notice shall be sent to the address of the Owner specified in the deed recorded in the Mesa County, Colorado real estate records by which that Owner took title and to the street address of that Lot, if any.
- 12.8 The section titles and headings used in this Declaration are for identification

- purpose only and shall not be utilized to interpret or construe the provisions of this Declaration.
- 12.9 Invalidation of any one of these covenants or restrictions by judgment of court order shall not affect any of the other provisions of this Declaration, which shall remain in full force and effect.
- 12.10 The provisions of this Declaration shall be binding upon and inure to the benefit of Declarants and each and all of its successors in interest and assigns.
- 12.11 It must be expressly understood that this Declaration and any variances granted by the DRC are in addition to any governmental requirements. Therefore, all necessary permits or variances must be obtained from the County of Mesa, the State of Colorado, or any other agency having jurisdiction. All requirements, ordinances, laws, stipulations, etc. of governing towns, counties, states and agencies must be adhered to.