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DECLARATION

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF PRITCHARD MESA ESTATES II SUBDIVISION Lots 1-23 ("Declaration") is made and entered into on JULY 28, 2006 by FARM DEVELOPMENT SERVICES, INC., hereinafter referred to as the "Declarant".

RECTIALS

- A. Declarant is the owner of certain real property, known as Lots 1-23, Pritchard Mesa Estates Subdivision II, according to the plat thereof recorded at Plat Book _____, Page _____, situated in Mesa County, Colorado all as more specifically described on Exhibit "A" attached hereto and by this reference incorporated herein.
- B. Declarant desires to subject and place upon the property described as Lots 1-23 on Exhibit "A" certain covenants, conditions, restrictions, easements, reservations, rights-of-way, obligations, liabilities and other charges set forth herein pursuant to the provisions of the Colorado Common Interest Ownership Act ("CCIOA") as amended, for the purpose of protecting the value and desirability of said property and for the purpose of furthering a plan for the improvements, sale and ownership of said property.
- C. Declarant desires that Tract A and Certain easements identified on the plat of the Subdivision for installation and maintenance of utilities, irrigation and drainage facilities, and pedestrian use are reserved as shown on the recorded plat and be conveyed to the Association by proper instrument and be maintained by the Association, subject to all applicable provisions of this Declaration, the bylaws, rules, regulations and policies of the Association.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, easements, rights-of-way, obligations, liabilities, charges and other provisions set forth herein, which are for the purpose of protecting the value and desirability of, and which shall run with the above-described property and be binding on all parties having any right, title, or interest in the above-described property or any part thereof, their heirs, personal representatives, successors, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

- 1.1 "ACCO" shall mean and refer to the Architectural Control Committee created herein.
- 1.2. "Association" shall mean and refer to the Pritchard Mesa Estates II Homeowners Association, Inc, a Colorado nonprofit corporation, its successors and assigns

- 1.3 "Board" shall mean and refer to the board of directors of the Association.
- 1.4 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions of Pritchard Mesa Estates Subdivision II Lots 1-23.
- 1.5 "Developer" shall mean and refer to the Declarant.
- 1.6 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Subdivision with the exception of Tract A.
- 1.7 "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.
- 1.8 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- 1.9 "Subdivision" shall mean and refer to that certain real property known as Pritchard Mesa Estates Subdivision II situated in Mesa County, Colorado, as described above in Recital A, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

ARTICLE II PROPERTY RIGHTS

2.1 Owner's Right of Enjoyment. Subject to the provisions of this Article 2, every Owner shall have a nonexclusive right to enjoy and use the irrigation water system and easements located upon the Subdivision and such right shall be appurtenant to and shall pass with the title to every Lot.

2.2 Extent of Owners' Right. The right of enjoyment created hereby shall be subject to the following:

2.2.1 The right of the Association to promulgate and publish rules and regulations with which each member shall strictly comply; and

2.2.2 The right of the Association, as provided in its Articles and Bylaws, to suspend the voting rights of a Member for any period during which any assessment against his Lot remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations; and

2.2.3 The right of the Association to close or limit the use of the irrigation water system and easements while maintaining, repairing or making replacements thereto or in the event a Member has had his voting right suspended; and

2.2.4 The rights of the Association to install, maintain and repair subdivision signage located within multipurpose easements.

2.3. Delegation of Use. Any Owner may delegate in accordance with the Bylaws his right of use to the members of his family, his tenants, or contract purchasers who reside on his lot.

2.4. Irrigation Water. Individual irrigation water service is provided to each Lot. Both the Grand Valley Water User's Association ("GVWUA") and the Grand Valley Irrigation Company ("GVIC") provide irrigation water to the Subdivision. The Association shall be responsible for financial management, operation and maintenance of the Subdivision's entire irrigation system. GVWUA and GVIC shall invoice the Association for all irrigation water delivered to the Subdivision. The Association shall establish, invoice and collect the assessments for irrigation water from each Owner. The Association shall be responsible for monitoring for unequal usage among Owners.

2.5 Irrigation Water Zones. Three separate irrigation water zones occur within the Subdivision; two are supplied by GVWUA and one is supplied by GVIC.

Irrigation Zone 1: Lots 1 and 2 utilize irrigation water provided by GVWUA via Lateral A-21 Turnout 225.

Irrigation Zone 2: Lots 3 through 10, inclusive, utilize irrigation water provided by GVIC via the existing main in J Road.

Irrigation Zone 3: Lots 11 through 23, inclusive, utilize irrigation water provided by GVWUA via Lateral A-21 1/2C Turnout 99.

2.6 Maintenance and Upkeep of Common Driveways. The easement as depicted on the recorded plat for the Subdivision over a portion of Lots 1 and 2 shall be for shared ingress/egress access for the sole and exclusive use of Lots 1 and 2. The easement as depicted on the recorded plat for the Subdivision over a portion of Lot 15 shall be for ingress/egress access, emergency vehicle access, utilities and irrigation water delivery for the sole and exclusive use of Lot 14. The access easement as depicted by the plat of Pritchard Mesa Estates Subdivision recorded in Book 3679, Page 776, over a portion of Lot 6, Block 2 of Pritchard Mesa Estates Subdivision shall be for ingress/egress access, emergency vehicle access, utilities and irrigation water delivery for the sole and exclusive use of Lots 2 and 6, Block 2 of Pritchard Mesa Estates Subdivision, and Lots 11 and 12 of the Subdivision. The Lot Owner or Owners, as the case may be, served by each individual access easements described herein shall be responsible, and jointly and severally responsible as the case may be, for the maintenance and upkeep of the driveways contained within each individual easement. Failure of the Owner of any Lot served by each individual access easement described herein to participate pro rata in the cost of the maintenance and upkeep of such driveways shall give rise to a right of assessment and lien pursuant to Article IV of this Declaration.

2.7 Tract A. Tract A as depicted on the recorded plat of the Subdivision is a dedicated utility easement owned by the Association. The Declarant reserves the right to enter into perpetual leases of portions of Tract A with adjoining Owners for the purpose of irrigation of and maintenance of ground cover and other allowed vegetation on said Tract A.



ARTICLE III MEMBERSHIP AND VOTING RIGHTS: THE ASSOCIATION

3.1 Membership. Every Owner of a Lot which is subject to assessment hereunder shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Each Lot shall be entitled to one vote and the vote for such Lot shall be exercised by the Owner or Owners of such Lot as they determine.

3.2 Directors of the Association. The affairs of this Association shall be initially managed by a board of three (3) directors (the "Board") appointed by the Declarant. When the Declarant's control is terminated or the Declarant voluntarily surrenders the right to appoint and remove members of the Board pursuant to Section 3.3 below, the Board shall be managed by at least three (3) directors. Directors shall meet the qualifications described in the Articles of Incorporation and Bylaws of the Association.

3.3 Management of the Association. From date of formation of the Association until the termination of Declarant's control as provided below, Declarant or persons designated by Declarant shall have the right to appoint and remove all members of the Board and all officers of the Association.

3.4 Period of Declarant's Control. The period of Declarant's control of the Association shall terminate no later than the earliest of sixty (60) days after conveyance of seventy-five percent (75%) of the Lots to Owners other than Declarant, two (2) years after the last conveyance of a Lot by Declarant in the ordinary course of business, or two (2) years after the right to add new Lots was exercised by Declarant.

3.5 Surrender of Declarant's Rights. Declarant may voluntarily surrender the right to appoint and remove officers of the Association and members of the Board before termination of the period of Declarant's control, but in that event Declarant may require, for the duration of the period of Declarant's control, that specified actions of the Association or Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective.

3.6 Composition of Board. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots to Owners other than the Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board must be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots to Owners other than the Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Board must be elected by Owners other than the Declarant.

3.7 Election of Board Not later than the termination of the period of Declarant's control as provided above, the Owners (including Declarant if so qualified) shall elect a Board of at least three (3) members, at least a majority of whom must be Owners other than Declarant or designated representatives of Owners other than Declarant. The Board shall elect the officers of the Association. The Board members and officers shall take office upon election.

3.8 Officers of the Association. The officers of the Association shall be as set forth in the Bylaws of the Association. *WHERE ARE THEY*

3.9 Compliance with CCIOA. The Board and the Association shall endeavor to comply with all applicable provisions of the Colorado Common Interest Ownership Act ("CCIOA"), Article 33.3, Title 38 of the Colorado Revised Statutes, as amended, to the extent deemed feasible and necessary in the management of the Association.

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ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

4.1 Creation of the Lien. Each Owner of any Lot, including Declarant, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association annual assessments or charges to be established and collected as hereinafter provided. The annual assessments, together with interest, late charges, costs and reasonable attorney's fees, shall be a charge on the land and shall be continuing lien upon the Lot against which such assessment is made. The obligation for such payments by each Owner to the Association is an independent covenant, with all amounts due from time to time payable in full without notice (except as otherwise expressly provided in this Declaration) on demand, and without setoff or deduction.

4.2 Enforcement of the Lien. The lien may be enforced by foreclosure of the defaulting Owner's Lot by the Association in like manner as a mortgage on real property. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, including reasonable attorney's fees. The Board of Directors or managing agent of the Association may prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Lot and a legal description of the Lot. Such notice shall be signed by one of the members of the Board or by the managing agent of the Association and may be recorded in the office of the Clerk and Recorder of the County of Mesa, Colorado. The lien for each unpaid assessment attaches to each Lot at the beginning of each assessment period and shall continue to be a lien against such Lot until paid. The costs and expenses for filing any notice of lien shall be added to the assessment for the Lot against which it is filed and collected as part and lot thereof.

4.3 Personal Obligation of Assessments. Each assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass from the person who was the Owner of such Lot at the time when the assessment became due. The Association's lien on a Lot

for assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien.

4.4 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the Subdivision and, to the extent not performed by any applicable governmental entity, for the construction, operation and maintenance of the irrigation water and ditch system serving the Subdivision.

4.5 Maximum Annual Assessment.

4.5.1 Until commencement of the second annual assessment period, the maximum annual assessment shall be Three Hundred Fifty Dollars (\$350.00) per Lot.

4.5.2 Effective with commencement of the second and each subsequent Association fiscal year, the maximum annual assessment may be increased by a vote of the Members over the amount established by the applications of the provisions of Section 4.5 (a) above or the next succeeding Association fiscal year and at the end of that year, for each succeeding Association fiscal year, provided that any such increase shall have the assent of two-thirds (2/3) of the Members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of such meeting setting forth the purpose therefore.

4.5.3 The Board may, at any time and from time to time, after consideration of the projected maintenance costs and the other financial needs of the Association, fix the actual assessment against each Lot at an amount less than the maximum assessment for any Association fiscal year.

4.6 Rate of Assessment. Lots 1 & 2 (*Irrigation zone 1*) will be assessed based on the size of each lot in acres, initially anticipated to be in the range of \$16 per acre per year. Lots 3 through 10, inclusive, (*Irrigation zone 2*) will be initially assessed the same fixed rate which is anticipated to be approximately \$35 per year. Lots 11 through 23, inclusive, (*Irrigation zone 3*) will be initially assessed the same fixed rate which is anticipated to be approximately \$32 per year.

4.7 Date of Commencement of Annual Assessments. The initial annual assessment shall commence on the first day of the month following the conveyance of 75% of the Lots in the Subdivision to Owners other than the Declarant, and the second and each subsequent annual assessment period shall correspond with the fiscal year of the Association. The annual assessments shall be made due and payable with such frequency and on such dates as determined by the Board, but not more frequently than monthly, provided that the first annual assessment shall be adjusted according to the number of months in the first Association fiscal year. Any Owner purchasing a Lot between installment due dates shall pay a pro rata share of the last installment due.

4.8 Reserve Accounts. The Association shall have the right to maintain adequate reserve fund accounts out of the annual assessments for the repair and replacement of those elements of Association property that must be repaired or replaced on a periodic basis.

4.9 Effect on Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within ten (10) days after the due date thereof shall bear interest from the due date at the rate of eighteen percent (18%) per annum, or at such lesser rate as may be set from time to time by the Association, and the Association may also assess a monthly late charge thereon. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot, and in the event of a judgment is obtained, such judgment shall include interest on the assessment and a reasonable attorney's fee to be fixed by the court, together with the costs of the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse or abandonment of his Lot.

4.10 Lien for Assessments. Under CCIOA, the Association has a statutory lien on a Lot for any assessments levied against that Lot and for fines imposed against its Owner from the time each assessment or fine becomes due. In addition, fees, charges, late charges, attorney's fees, fines and interest charged pursuant to this Declaration or CCIOA are enforceable as assessments. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

4.11 Priority of Statutory Lien. The statutory lien for assessments is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances recorded before the recordation of this Declaration; (2) a lien of a first mortgage which was recorded before the date on which the assessment sought to be enforced became delinquent, and; (3) liens for real estate taxes and other governmental assessments or charges against the Lot. Notwithstanding the foregoing, the statutory lien for assessments is also prior to the lien of a first mortgage to the extent of an amount equal to the assessments based on a periodic budget adopted by the Association which would have become due, in the absence of any acceleration, during the six months immediately preceding institution of an action to enforce the statutory lien.

4.12 Notice of Perfection of Statutory Lien. The recording of this Declaration constitutes record notice of perfection of the statutory lien. No further recordation of any claim of lien or assessment is required; however, a claim may be recorded at the Association's option, in which event costs and attorney's fees incurred in connection with the preparation and filing of such claim shall be assessed against the Owner's Lot as a default assessment.

ARTICLE V EXTERIOR MAINTENANCE

5.1 General. Except as otherwise provided herein, the maintenance and repair of each Lot, including but not limited to landscaping, the interior and exterior of the residence, improvements constructed thereon, and any fence on the boundary line of a Lot shall be the responsibility of the Owner(s) thereof.

5.2 Owner's Negligence. Notwithstanding anything to the contrary contained in this Article V, in the event that the need for maintenance or repair of the Association property is caused by the willful or negligent act or omission of any Owner, or by the willful or negligent act or omission of any member of such Owner's family, or by a guest or invitee of such Owner, the cost of such repair or maintenance shall be the personal obligation of such Owner, and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction shall be added to and become part of the assessment to which such Owner's Lot is subject and shall become a lien against such Owner's Lot as provided in Article IV of this Declaration. A determination of the negligence or willful act or omission of any Owner or any member of an Owner's family or a guest or invitee of any Owner, and the amount of the Owner's liability therefor, shall be determined by the Association at a hearing after notice of the Owner, provided that any such determination which assigns liability to any Owner pursuant to the terms of this Section may be appealed by said Owner to a court of law.

ARTICLE VI ALLOWED USES

6.1 General. All of the Lots within the Subdivision shall be used only for residential purposes. Only detached single family dwellings may be constructed on any Lot, and only one single family dwelling per Lot. All structures shall be of new construction built on-site. No mobile, modular or manufactured housing shall be allowed. No Lot shall be re-subdivided. With appropriate governmental or judicial approval, lot line adjustments may occur where no additional lots are created. The construction, remodeling or alteration of any building or exterior improvement of any kind on any Lot within the Subdivision, including (without limitation) driveways or fencing on a Lot, the alteration or destruction of any vegetation on any Lot, or landscaping on any Lot is subject to the provisions of Article VII of this Declaration.

6.2 Minimum Dwelling Size. Each dwelling shall have minimum dwelling space in the first floor area, exclusive of open porches, patios, basements and garages, of not less than 2,400 square feet for ranch style and 2,000 for multi-story dwellings.

6.3 Building Setbacks. 50-foot setbacks for front yard (street), side yard, and rear yard for principal and accessory structures are required and if utilized do not require ACCO approval. Reduced setbacks may be allowed subject to the provisions of Article VII of this Declaration. In all cases, building locations must comply with applicable Mesa County code requirements. No principal and accessory structures, including storage buildings, shall be constructed in the "no build area" as denoted for any Lot on the recorded plat of the Subdivision.

6.4 Garages. Every dwelling shall have a private garage for no less than two cars. Garages shall have entry for vehicles facing a side property line or the rear property line of each Lot.

6.5 Driveways. Each driveway shall have a driveway surface constructed sufficient to provide year-round access by emergency vehicles. Driveway permits for work within any

road right-of-way from Mesa County are required. No alteration shall be done to roadside ditches without a required driveway permit.

6.6 Accessory Structures. Detached accessory structures, including storage buildings, barns and corrals, must be approved by the ACCO. Construction of accessory structures shall be similar to that of the principal dwelling in color and style. Subject to ACCO approval, a caretaker or "mother-in-law" unit attached to the primary residence may be allowed if authorized under the existing zoning for the Subdivision.

6.7 Temporary Structures. No structure of a temporary nature, such as a tent, garage, trailer house, barn, or other outbuilding or basement shall be used on any Lot at any time as a residence, either temporarily or permanently.

6.8 Trash. No Lot shall be used or maintained as a dumping ground for rubbish or storage area for junk. Trash, garbage or other waste must be kept in sanitary containers. All equipment for the storage or disposal of refuse shall be kept in a clean and sanitary condition. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done or placed on any Lot which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others, or which may constitute a health hazard.

6.9 Advertising. No signs, devices or billboards for the purpose of advertising shall be displayed within the Subdivision unless written approval thereof is granted by ACCO. One "for sale" sign per Lot, which shall not be larger than 18 inches by 24 inches, signs used by the Developer for subdivision advertisement, and signs used by builders to advertise during the building and sale period are allowed.

6.10 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except as proved in this paragraph. Dogs, cats or other household pets may be kept on a Lot provided that they are not kept, bred or maintained for commercial purposes. All pets must be controlled and contained so that they do not become a nuisance to the neighborhood and do not run at large or endanger or harass other animals or wildlife. Any unconfined pet must be under the control of a responsible individual, including being on a leash if not otherwise controlled.

6.10.1 Large Domestic Animals. Large domestic animals, including livestock but not swine, and meaning those animals not ordinarily kept as household pets, are permitted on Lots 1, 2, 3, 6, 10, 18, and 20 and are subject to these minimum conditions: the number of large domestic animals shall not exceed one per acre; all Lots, enclosures and corrals thereon must be kept free of manure and waste and shall not provide breeding grounds for flies or other pests or otherwise create a nuisance; arenas or other riding and exercise areas must be kept dust-free and shall only be allowed on Lots 1, 2, 6 and 10, and; the location and plans for any barns, corrals or fencing to contain large domestic animals must be approved in advance by the ACCO pursuant to Section VII of this Declaration. The Association may adopt additional rules to regulate large domestic animals, and these minimum conditions and any adopted rules will be strictly enforced by the Association to protect adjoining Lots.

6.11 Screening. All clotheslines, implements, recreational vehicles, motor homes, boats, equipment, service yards, wood piles, storage piles, all equipment for the storage or disposal of refuse, and HVAC units shall be kept screened by adequate vegetation, fencing or walls to conceal them from public view and from adjoining Lots, or shall be stored wholly within an enclosed garage or accessory building located on the Lot. All screening plans shall be submitted to the ACCO for approval prior to construction.

6.12 Roofs. Permitted roof coverings shall include: shake, cedar or cypress shake material; a minimum of 25 years premium asphalt shingles; wood shingles; tile; slate; or built-up roof materials where approved by the ACCO. Hipped roof style and character are encouraged along with a harmonic and integrated roofscape. Swamp coolers mounted on a roof of a structure are prohibited. Venting and piping extending above the roof shall be painted or finished to match the roofing material color.

6.13 Exterior Materials and Colors. Stains and paints shall be colors for subdued earth tones. No bright or garish colors, including white, shall be permitted on the exterior of any structure. White is permitted as a color for exterior door and window treatment. All exterior walls shall have a finish of brick, stone or stucco, or a combination of such materials. All street facing exterior walls shall contain at least 10% brick or stone.

6.14 Height Restriction. All Lot building pads shall not exceed three (3) feet above the highest point of the Lot grade existing prior to construction within the building foundation unless approved by the ACCO. All building heights will conform to the Mesa County Code.

6.15 Antennas. No towers or antennas shall be erected on any Lot which is higher than three (3) feet above the roof line of the highest structure on the lot. Satellite reception dishes shall be allowed that are less than 24 inches in diameter and that are mounted in a discreet location.

6.16 Tanks. No elevated or underground tanks of any kind shall be permitted except in conjunction with on-site sewage disposal systems and cisterns for water storage.

6.17 Outdoor Lighting. All outdoor and exterior lighting fixtures shall have directed shielding so as to prevent light or glare from the fixture from shining above and beyond the Lot where the fixture is installed. This means that a person standing at an adjacent property line would not see the light-emitting source. All outdoor lighting, including, but not limited to, driveway, parking, security, walkway, and building lighting shall conform to these standards. "Dusk to dawn" pole-mounted mercury vapor or similar light sources are expressly prohibited. Lighting for security may be accomplished with motion sensor detectors or similar devices that conform to these standards. All outdoor and exterior lights standards shall be subject to approval by the ACCO for harmonious development and prevention of lighting nuisances.

6.18 Recreational Vehicles. No snowmobiles, ATV's, go-carts, motorcycles, or similar recreational vehicles shall be operated on any Lot or within the Subdivision except that motorcycles may be utilized for transportation to public roads.

6.19 Hazardous Activities. No activities shall be conducted on any Lot and no improvements constructed on any Lot which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon and Lot or the Subdivision; and no open fires shall be lighted or permitted in any property (including burning of trash or rubbish) except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed fireplace, and except for ditch or pasture burning in accordance with Mesa County requirements and restrictions.

6.20 Utilities All utilities shall be buried underground from their primary source adjacent to the Lot line at the owner's sole expense.

6.21 Wildlife. No hunting, shooting, trapping or otherwise killing or harming of wildlife shall be permitted in the Subdivision or any Lot, it being the intent hereof to conserve and protect all wildlife to the fullest extent possible. The Association shall be allowed to control nuisance animals.

6.22 Landscaping. The ACCO shall review for approval all landscaping and site plans. Landscaping plans must be submitted for ACCO approval within one (1) year after construction if the primary dwelling is complete, which plans shall include a schedule of completion for not more than one (1) year after approval. The landscape objective for Subdivision is to protect and preserve the existing rural, pastoral and natural character of the property. Planting of natural grasses and vegetation, including cottonwoods and three leaf sumac will be encouraged.

6.23 Fencing All fencing on any Lot within the Subdivision is subject to prior approval from the ACCO subject to the provision of Article VII of the Declaration. All fencing shall allow wildlife movement.

6.23.1 Fencing Adjacent to Principal Dwelling and Accessory Structures. Privacy, screening, and ornamental fencing no higher than 72 inches is allowed within 100 feet of the foundation of the principal dwelling and accessory structures, provided that fencing of such height shall not be within any required setback. Chain link fencing no higher than 42 inches for pet containment, and chain link fencing higher than 72 inches for a tennis court, may be allowed only upon prior approval by the ACCO and only if screened from the view of adjacent roadways and adjoining properties by vegetation or other material approved by the ACCO.

6.23.2 Boundary Intermediate Fencing. All boundary fencing shall consist of two or three-rail wooden fencing as specified herein and may incorporate welded wire or open wire rectangular fencing no higher than the upper rail. Boundary fencing on shared boundaries of Lots and intermediate fencing shall consist of two-rail wooden fencing.

6.23.3 Fencing for Large Domestic Animals. Boundary fencing on shared boundaries of Lots for the containment of large domestic animal on Lots 1,2,3,6,10,18 and 20 shall consist of three-rail wooden fencing. Boundary fencing and intermediate fencing not on shared boundaries of Lots for the containment of large domestic animals on Lots 1,2,3,6,10,18 and 20 may consist of agricultural field fencing.

6.23.4 No Fencing of Grand Junction Drainage District Easement. No fence of any kind shall be installed on the Grand Junction Drainage District easement on Lots 20, 21, 22 or 23 that is depicted on the recorded plat of the Subdivision. The Grand Junction Drainage District shall have complete and unblocked access to the roadways along each side of the drainage ditch at all times for maintenance of Grand Junction Drainage District facilities located within said easement.

6.24 Mining. No Lot shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth.

6.25 Plants. No Owner shall permit any thing or condition to exist upon his Lot which shall induce, breed or harbor noxious weeds as specified by Mesa County, infectious plant diseases or noxious insects.

6.26 Noise and Odor. No sound shall be emitted on any Lot or within the Subdivision which is unreasonably loud or annoying, and no odor shall be emitted on any Lot or within the Subdivision which is noxious or offensive to others.

6.27 Easements. Easements for the installation and maintenance of utilities, irrigation and drainage facilities are reserved as shown on the recorded plat of the Subdivision, or any portion thereof, or other duly recorded instrument(s), and may be supplemented by the Declarant. Within these easements no fencing, structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements. Declarant hereby reserves the right to enter upon any Lot subject to any such easement to correct any flow of water and to establish and re-establish drainage channels.

6.27.1 Tract A. Tract A will be granted to the Association by separate deed as a 30-foot utility easement for Ute Water, Grand Valley Power, and other utilities approved by the Association. Maintenance of Tract A will be provided by the Association.

6.27.2 Specific Easements. The following specific easements shall be granted to the Association by separate deed and are for the specific uses noted: (1) a 10-foot easement across Lot 1 as shown on the recorded plat of the Subdivision for the purpose of the installation, maintenance, and repair of irrigation services and facilities; (2) a 20-foot easement across Lots 20 & 21, as shown on the recorded plat of the Subdivision, for the purpose of the installation, maintenance, and repair of irrigation services and facilities; (3) a 20-foot easement along the South property line of Lot 9 as shown on the recorded plat of the Subdivision for the purpose of the installation, maintenance, and repair of drainage services and facilities; (4) a 10-foot easement across Lot 10, as shown on the recorded plat of the Subdivision, for the purpose of the installation, maintenance, and repair of drainage services and facilities; (5) a 20-foot easement along the East property lines of Lots 12 & 13 as shown on the recorded plat of the Subdivision for the purpose of the installation, maintenance, and repair of drainage services and facilities; (6) a 15-foot

pedestrian easement generally on the Northwest boundary of the Subdivision as shown on the recorded plat of the Subdivision for the use of the Members and invited guests of the Members, and; (7) an 8-foot pedestrian easement generally on the Eastern boundary of the Subdivision as shown on the recorded plat of the Subdivision for the use of the Members and invited guests of the Members.

6.28 Irrigation and Tail Water. No use shall be made of the irrigation water delivery system and the irrigation water which will in any manner violate the statutes, rules, or regulations of any governmental authority or the Association. Due to concerns regarding water conservation and the geologic integrity of the Subdivision, the Association shall have the exclusive right to control the irrigation water system within the Subdivision. The use of the irrigation water system and irrigation water shall be subject to such rules and regulations as may be adopted from time to time by the Board of the Association. Lots 6 through 12, inclusive, and Lots 14 through 18, inclusive, require a surface discharge agreement with the Grand Valley Irrigation Company. Lots 20 through 23, inclusive, shall control surface water runoff with a waste ditch and pipe that shall be purchased and installed by the Lot Owner so that surface water runoff can be transported under the Grand Junction Drainage District drainage ditch maintenance road and shall obtain a permit from the Grand Junction Drainage District prior to installing improvements and discharging water into the drainage ditch. Sheet flow or confined surface flow across such drainage ditch maintenance road shall not be allowed.

The irrigation water system is a shared system with Pritchard Mesa Estates Homeowners Association, and both associations will cooperate in the use and maintenance of the irrigation water system.

Flood or furrow irrigation is allowed on Lots 1, 2 and 6 only; no flood or furrow irrigation is allowed on any other Lot.

ARTICLE VII ARCHITECTURAL CONTROL COMMITTEE

7.1 Composition of Committee. The Architectural Control Committee ("ACCO") shall consist of three (3) or more persons appointed by the Declarant until such time that until Declarant has conveyed all Lots to Owners other than the Declarant, or until three (3) years after the date of recording of this Declaration, whichever occurs earliest, after which the members of the ACCO shall be appointed by the Board. A majority of the ACCO may, from time to time, designate a representative to act for it. Reasonable effort shall be made to have a licensed architect as a member of the ACCO.

7.2 Declarant Appointment. The power of the Declarant to "appoint" members of the ACCO, as provided herein, shall include without limitation the power to: initially constitute the membership of the ACCO; appoint member(s) to the ACCO upon the occurrence of any vacancy therein; for whatever reason remove any member of the ACCO, with or without cause, at any time, and; appoint the successor thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time

in the discretion of the Declarant. All improvements within the Subdivision constructed by Declarant during the period in which it appoints the ACCO shall be deemed approved by the ACCO without the issuance of any writing evidencing such approval. The ACCO shall have the right to adopt architectural control guidelines from time to time to assist Lot Owners in applying for ACCO approval.

7.3 Prior Approval. No buildings or exterior improvements of any kind on any Lot within the Subdivision, including (without limitation) driveways or fencing on a Lot, shall be constructed, remodeled or altered in any manner, nor may any vegetation be altered or destroyed, nor may any landscaping be performed unless two (2) complete sets of plans and specifications for such construction, remodel, alteration or landscaping are submitted to and approved by the Architectural Control Committee ("ACCO") prior to the commencement of such work. All applications shall be submitted to the ACCO in writing. The ACCO may adopt rules and regulations for processing of such applications, including a reasonable processing fee.

7.4 Plans. Plans and specifications submitted hereunder shall show the nature, kind, shape, height, materials, floor plans, location, exterior color scheme, alterations, grading, drainage, erosion control and all other matters necessary for the ACCO to properly consider and make a determination thereon. Submittals shall include a minimum of:

- 7.4.1 1" = 10' scale site plan showing property boundaries, setbacks, building envelope, principal and accessory buildings, driveway location and width, surface drainage and fencing.
- 7.4.2 Building elevations (four views) and floor plans.
- 7.4.3 Engineered foundation plans by a Colorado licensed professional engineer.
- 7.4.4 Samples of roof and external materials along with field, trim and accent colors for principal and accessory buildings.
- 7.4.5 Landscape plans shall be in a 1" = 10' scale and shall include plant quantity and types, fencing, drainage, irrigation and other site improvements.

The ACCO shall disapprove any plans and specifications submitted to it which are not sufficient for it to exercise the judgement required of it by this Declaration.

7.5 Procedures. The ACCO shall approve, approve with stated conditions or stipulations, or disapprove all requests for construction, remodel, alteration or landscaping within thirty (30) days after the complete submission of copies of all plans, specifications and other materials which the ACCO may, in its discretion, require in conjunction therewith. In the event that the ACCO fails to approve or disapprove any request within thirty (30) days after the complete submission of all plans, specifications, materials and other information with respect thereto, approval shall not be required and this Article shall be deemed to have been fully complied with by the person submitting such plans and specifications for construction, remodel, alteration or landscaping.

7.6 Vote and Appeal. A majority vote of the ACCO is required to approve any request for construction, remodel, alteration or landscaping pursuant to this Article. An Owner of a Lot may appeal the decision of the ACCO to the Board of the Association if the Board is composed of different members than the ACCO. In such event, the decision of the Board shall be final.

7.7 Best Judgment. The ACCO shall exercise its best judgment to see that all improvements, structures, landscaping and all alterations on the land within the Subdivision conform and harmonize with the natural surroundings and with existing structures as to external design, materials, color, siding, height, lighting, topography, grade, drainage, erosion control and finished ground elevations.

7.8 Variance. Where circumstances require or allow, such as topography, location of trees, brush, rock outcroppings, area aesthetic considerations, or other matters, the ACCO may, by a two-thirds vote, grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration, in order to overcome practical difficulties and prevent unnecessary hardships arising by reason of the application of the conditions and restrictions contained in this Declaration, including required sizes of structures, setback or side yard requirements, on such terms and conditions as the ACCO shall require. Such variances or adjustments may be granted only in case the granting thereof shall not be materially detrimental or injurious to the other Lots or improvements in the Subdivision and shall not work against the general intent and purpose of the Declaration. The opinions of adjoining Lot Owners shall be considered in any decisions to grant reasonable variances or adjustments.

7.9 Time. After approval of any plan by the ACCO, construction of the same shall be completed with due diligence in conformity with conditions of approval, if any. Failure to adhere to any term of approval shall operate automatically to revoke the approval, and the ACCO may require the property to be restored as nearly as possible to its previous state. The time for completion of any such work may be extended by the ACCO.

7.10 Liability. The ACCO, the Developer, or any Lot Owner shall not be liable in damages to any person, corporation or association submitting any plans and specifications or to any Lot Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove any such plans and specifications. Any Owner submitting or causing to be submitted any plans and specifications to the ACCO agrees and covenants that he will not bring any action or suit to recover damages against the ACCO, the Developer or any Owner collectively, its members individually or its advisors, employees or agents.

7.11 Records. The ACCO shall maintain written records of all applications submitted to it and all actions taken by it thereon, and such records shall be available to Members for inspection at reasonable hours upon reasonable notice.

7.12 Waivers. The approval or consent of the ACCO to any application for approval of construction, remodel, alteration or landscaping shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the ACCO as to any application or other

matters whatsoever subsequently or additionally submitted to the ACCO for approval or consent hereunder.

ARTICLE VIII GENERAL PROVISIONS

8.1 Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws or rules and regulations of the Association, as amended, shall be by any proceeding at law or in equity against any person or persons, including without limitation the Association, violating or attempting to violate any such provision. The association and any aggrieved Owner shall have the right to institute, maintain and/or prosecute any such proceedings, and the Association shall further have the right to levy and collect fines for the violation of any provision of the aforesaid documents in any action instituted or maintained under this Section. The prevailing party shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by the Court. Failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

8.2 Severability. Invalidation of any of the covenants, restrictions or other provisions contained in this Declaration by judgement or court order shall in no way affect or limit any other provisions which shall remain in full force and effect.

8.3 Conflict of Provisions. In case of any conflict between this Declaration, the Articles of Incorporation or Bylaws of the Association, this Declaration shall control.

8.4 Street Lighting. Unless street lighting and the cost thereof is provided by the community in which jurisdiction this subdivision is situated, all Lots shall be subject to and bound to Grand Valley Rural Power tariffs which are now and may in the future be filed with the Public Utilities Commission of the State of Colorado relating to street lighting in this subdivision, together with rates, rules and regulations therein provided and subject to all future amendments and changes on file with the Public Utilities Commission of the State of Colorado.

8.5 Duration, Revocation, and Amendment Each and every provision of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of recording of this Declaration, after which time this Declaration shall be automatically extended for successive periods of (10) years each. Except as provided in this section 8.5, this Declaration may be amended during the first twenty (20) year period, and during subsequent extensions thereof, by any instrument approved in writing by not less than sixty-seven percent (67%) of the Members. Such amendment shall be effective when duly recorded in Mesa County, Colorado. If Declarant shall determine that any amendments to this Declaration or any amendments to the Articles of Incorporation or Bylaws of the Association shall be necessary in order for existing or future mortgages, deeds of trust or other security instruments to be acceptable to any of the agencies, Declarant shall have and is hereby specifically granted the right and power to make and execute any such amendment of this Declaration prior to termination of the Declarant's control

of the Association. Declarant hereby reserves and is granted the right and power to record technical amendments to this Declaration, Articles of Incorporation or Bylaws of the Association at any time prior to the termination of Declarant's control or the Association, for the purposes of correcting spelling, grammar, dates, typographical errors, or as may otherwise be necessary to clarify the meaning of any provision of any such document. Pursuant to §38-33.3-217(7), C.R.S., the Board has the right to petition the Mesa County District Court for amendments to this Declaration under certain circumstances.

8.6 Reserved Rights of Declarant. Declarant, for itself and its successors and assigns, hereby retains a right to store construction materials on Lots owned by Declarant and to make such other use thereof as may be reasonably necessary or incidental for the purpose of the completion or improvement of the Subdivision, the performance of Declarant's obligations hereunder, and the sale of the Lots. Declarant, for itself and its successors and assigns, hereby reserves the right to enter into perpetual leases of portions of Tract A with adjoining Owners for the purpose of irrigation of and maintenance of ground cover and other allowed vegetation on said Tract A. Any special Declarant right created or served under this Declaration for the benefit of Declarant may be transferred to any person by an instrument executed by Declarant and its transferee describing the rights transferred and recorded in the office of the Clerk and Recorder for the County of Mesa. The rights of Declarant reserved hereunder shall expire five (5) years after the recording of this Declaration. Any rights granted to Declarant under this Declaration shall expire on the date which is ten (10) years from the recording date of this Declaration, unless otherwise provided herein.

8.7 Easement for Encroachments. If any portion of a structure encroaches upon any Common Area or upon any adjoining Lot, or if any portion of any Common Area encroaches upon any Lot, including any future encroachments arising or resulting from the repair or reconstruction of a structure subsequent to its damage, destruction or condemnation, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist.

8.8 Registration by Owner of Mailing Address. Each Owner shall register his mailing address with the Association, and except for statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent either by registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address, with the exception of notice of approval or disapproval of plans and specifications by the ACCO, which may be sent by first class mail, postage prepaid, addressed to the address furnished by the Owner. However, if any Owner fails to so notify the Association of a registered address, then any notice or demand may be sent by first class mail, postage prepaid, to such Owner at the address of such Owner's Lot. All notices, demands, or other notices intended to be served upon the Board or the Association shall be sent by certified mail, postage prepaid, to Pritchard Mesa Estates II Homeowners Association, Inc., 1063 21 ½ Road, Grand Junction, CO 81505, or to such address as changed by the Association.

Exhibit A

BOUNDARY DESCRIPTION LOTS 1-23 OF PRITCHARD MESA ESTATES II SUBDIVISION

That real property situated in the South Half of Section 18, Township 1 North, Range 1 West of the Ute Meridian, County of Mesa, State of Colorado, being more particularly described as follows: Book 3676 - Page 320, Book 3903 - Pages 148 through 149, and Book 3823 - Page 983, Mesa County records.

Commencing at South Quarter corner of Section 18, Township 1 North, Range 1 West of the Ute Meridian, whence the Northeast corner of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) said Section 18 bears North 00 degrees 00 minutes 57 seconds West, a distance of 1318.63 feet, for a basis of bearings, with all bearings contained herein relative thereto; thence North 00 degrees 00 minutes 57 seconds West, a distance of 30.00 feet to a point at the Southeast corner of Block 3, Pritchard Mesa Estates Subdivision, as shown on plat recorded at Book 3679, Pages 776-778, the POINT OF BEGINNING; thence along the boundary of said Block 3, Pritchard Mesa Estates Subdivision the following ten (10) courses: (1) North 89 degrees 59 minutes 45 seconds West, a distance of 1120.99 feet; (2) North 00 degrees 00 minutes 15 seconds East, a distance of 311.96 feet; (3) South 89 degrees 59 minutes 45 seconds East, a distance of 334.52 feet; (4) North 45 degrees 00 minutes 10 seconds East, a distance of 70.71 feet; (5) North 00 degrees 00 minutes 06 seconds East, a distance of 254.14 feet; (6) North 89 degrees 59 minutes 45 seconds West, a distance of 62.50 feet; (7) North 00 degrees 00 minutes 06 seconds East, a distance of 271.77 feet; (8) along a curve to the left, having a delta angle of 307 degrees 38 minutes 31 seconds, a radius of 68.00 feet, an arc length of 365.12 feet, a chord length of 60.00 feet, and chord bearing of North 00 degrees 00 minutes 00 seconds East; (9) North 90 degrees 00 minutes 00 seconds West, a distance of 1.92 feet; (10) North 04 degrees 18 minutes 20 seconds West, a distance of 373.53 feet; thence along the boundary of Block 4, Pritchard Mesa Estates Subdivision, as shown on plat recorded at Book 3679, Pages 776-778, the following fourteen (14) courses: (1) with a non-tangent curve to the right having a delta angle of 09 degrees 45 minutes 29 seconds, with a radius of 266.78 feet, an arc length of 45.44 feet, having a chord bearing of South 83 degrees 10 minutes 10 seconds East, and a chord length of 45.38 feet; (2) with a non-tangent curve to the left having a delta angle of 10 degrees 37 minutes 52 seconds, with a radius of 547.05 feet, an arc length of 101.50 feet, having a chord bearing of South 88 degrees 12 minutes 44 seconds East, and a chord length of 101.36 feet; (3) with a non-tangent curve to the left having a delta angle of 58 degrees 06 minutes 00 seconds, with a radius of 88.17 feet, an arc length of 89.40 feet, having a chord bearing of North 64 degrees 22 minutes 06 seconds East, and a chord length of 85.62 feet; (4) North 38 degrees 09 minutes 36 seconds East, a distance of 114.58 feet; (5) North 31 degrees 57 minutes 46 seconds East, a distance of 94.60 feet; (6) North 33 degrees 28 minutes 12 seconds East, a distance of 210.63 feet; (7) North 43 degrees 45 minutes 44 seconds East, a distance of 242.94 feet; (8) with a curve to the left having a delta angle of 56 degrees 54 minutes 19 seconds, with a radius of 99.00 feet, an arc length of 98.33 feet, having a chord bearing of North 15 degrees 18 minutes 35 seconds East, and a chord length of 94.33 feet; (9) North 13 degrees 08 minutes 35 seconds West, a distance of 104.42 feet; (10) with a non-tangent curve to the right having a delta angle of 27 degrees 02

minutes 41 seconds, with a radius of 150.00 feet, an arc length of 70.80 feet, having a chord bearing of North 01 degrees 12 minutes 46 seconds West, and a chord length of 70.15 feet; (11) North 12 degrees 18 minutes 34 seconds East, a distance of 110.44 feet; (12) with a non-tangent curve to the right having a delta angle of 45 degrees 12 minutes 04 seconds, with a radius of 294.68 feet, an arc length of 232.47 feet, having a chord bearing of North 29 degrees 06 minutes 14 seconds East, and a chord length of 226.49 feet; (13) with a non-tangent curve to the left having a delta angle of 46 degrees 30 minutes 46 seconds, with a radius of 100.00 feet, an arc length of 81.18 feet, having a chord bearing of North 22 degrees 44 minutes 48 seconds East, and a chord length of 78.97 feet, (14) North 00 degrees 30 minutes 34 seconds West, a distance of 96.60 feet; to a point on the North line of the SW $\frac{1}{4}$ of said Section 18, T1N, R1W, U.M.; thence South 89 degrees 58 minutes 57 seconds East, a distance of 51.60 feet along said North line of said Block 3, said Pritchard Mesa Estates Subdivision, also being North line of said SW $\frac{1}{4}$ of Section 18, to the Center Quarter corner of said Section 18, T1N, R1W; thence South 00 degrees 38 minutes 26 seconds West, a distance of 706.15 feet, along the East line of the SW $\frac{1}{4}$ of said Section 18 to the intersection with the Grand Valley Canal centerline; thence along said Grand Valley Canal centerline the following three (3) courses: (1) South 41 degrees 37 minutes 09 seconds East, a distance of 53.31 feet; (2) South 49 degrees 52 minutes 28 seconds East, a distance of 140.86 feet; (3) South 52 degrees 55 minutes 51 seconds East, a distance of 133.17 feet; thence South 03 degrees 01 minutes 10 seconds West, a distance of 403.20 feet, to a point on the North line of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 18; thence North 89 degrees 58 minutes 10 seconds East, a distance of 1091.65 feet, to the Northeast corner of said SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 18; thence South 00 degrees 02 minutes 19 seconds East, a distance of 1319.29 feet, along the East line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 18 to the Southeast corner of said SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 18; thence South 89 degrees 59 minutes 53 seconds West, a distance of 1127.17 feet, along the South line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 18; thence North 00 degrees 00 minutes 57 seconds West, a distance of 230.00 feet; thence South 89 degrees 59 minutes 53 seconds West, a distance of 200.00 feet; thence South 00 degrees 00 minutes 57 seconds East, a distance of 200.00 feet to the Point of Beginning.

Said tract containing an area of 75.830 Acres, more or less, as described.