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Linda J. Daley  
Laplata County, CO



# DOVE RANCH

## DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

June 1, 2004

STATE OF COLORADO  COUNTY OF LA PLATA	Indexing Note: Please index in grantee's index under "Dove Ranch Home Owners Association, Inc." and in grantor's index under "Dove Ranch, L.L.C."
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Upon recording, please return to:

Dove Ranch, LLC  
100 Jenkins Ranch Road  
Durango, CO 81301-9430



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"A"	Land Initially Submitted	1
"B"	Land Subject to Annexation	4
"C"	Initial Restrictions and Rules	3
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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**  
**FOR**  
**DOVE RANCH**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made by Dove Ranch, L.L.C., a Colorado limited liability company, on behalf of itself, its successors and assigns (the "Declarant").

**PART ONE: INTRODUCTION TO THE COMMUNITY**

*This Declaration provides a governance structure and a flexible system of standards and procedures for the overall development, expansion, administration, maintenance and preservation of Dove Ranch as a planned community.*

**Article I      Creation of the Community**

1.1.    Purpose and Intent.

Declarant, as the owner of the real property described in Exhibit "A," intends by this Declaration to establish a general plan of development for the planned community known as Dove Ranch. An integral part of the development plan is the creation of Dove Ranch Home Owners Association, Inc., an association comprised of all owners of real property in Dove Ranch, to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referenced in this Declaration.

The planned community established by recording of this Declaration is exempt from the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101 (2002), *et seq.*, pursuant to C.R.S. §38-33.3-116, except as otherwise specifically stated in that section.

1.2.    Binding Effect.

All property described in Exhibit "A," and any additional property which is made a part of Dove Ranch in the future by amendment of this Declaration or Supplemental Declaration, shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the title to such property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of Dove Ranch, their heirs, successors, successors-in-title, and assigns.



This Declaration, as it may be amended, is intended to have perpetual duration, subject to the right of the Owners to terminate this Declaration and the planned community established by this Declaration in accordance with the procedures set forth in Article XIX.

1.3. Governing Documents:

The Governing Documents for Dove Ranch consist of the following documents, as they may be amended and supplemented:

- **Declaration**  
creates obligations which are binding upon the Association and all present and future owners of property in Dove Ranch (recorded by the Declarant in the office of the La Plata County Clerk and Recorder).
- **Supplemental Declaration**  
expands Dove Ranch and/or creates additional obligations, restrictions and easements on a portion of Dove Ranch (recorded by the Declarant in the office of the La Plata County Clerk and Recorder)
- **Design Guidelines**  
establish standards and guidelines for improvements and modifications to Units, including structures, landscaping and other items on Units (Declarant adopts and amends initially pursuant to Article IV)
- **Restrictions and Rules**  
govern use of property, activities, and conduct within Dove Ranch (Board or members may adopt; initial restrictions and rules attached as Exhibit "C")
- **Articles of Incorporation**  
establish the Association as a nonprofit corporation under Colorado law (filed with the Secretary of State)
- **By-Laws**  
governs the Association's internal affairs, such as voting, elections, meetings, etc. (Board of Directors adopts; initial By-Laws attached as Exhibit "D")
- **Board Resolutions**  
establish rules, policies and procedures for internal governance; interpret the Governing Documents, and regulate operation and use of the Common Area, among other things (Board of Directors adopts)

In the event of a conflict between or among any of the Governing Documents, the documents shall be given priority in the order listed above, except that in the event that one



document is more restrictive than another on a particular matter, the more restrictive provision shall control.

All Owners and occupants of property within Dove Ranch, as well as their respective tenants, guests and invitees, are bound by the Governing Documents. Each Owner is responsible for obtaining a copy of, reviewing, and complying with the Governing Documents and for ensuring that the occupants of such Owner's Unit, including any tenant, and all guests, invitees, contractors, subcontractors, and agents of the Owner or any tenant, also comply with the Governing Documents.

The Association, the Declarant, and every Owner shall have the right to take legal action to enforce the Governing Documents. The Association shall have the specific enforcement powers and remedies described in Section 7.5 and elsewhere in the Governing Documents.

If any court should determine that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision.

Throughout the Governing Documents there are diagrams to illustrate the concepts discussed and aid in the reader's comprehension. Such diagrams are for illustrative purposes only. In the event of a conflict between any diagram and the text of the Governing Documents, the text shall control.

## **Article II Concepts and Definitions**

### **2.1. Defined Terms.**

The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below.

**"Design Guidelines":** The guidelines and standards for design, construction, landscaping, and exterior items placed on Units adopted pursuant to Article IV, as they may be amended.

**"Area of Common Responsibility":** The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, or other applicable covenants, contracts, or agreements.

**"Articles":** the Articles of Incorporation of Dove Ranch Home Owners Association, Inc., filed with the Colorado Secretary of State, as they may be amended.



"Assessments": fees and charges that the Association is authorized to levy against a Unit pursuant to the Governing Documents, payment of which is the personal obligation of the Owner and secured by a lien against the Unit.

"Association": Dove Ranch Home Owners Association, Inc., a Colorado nonprofit corporation, its successors or assigns.

"Dove Ranch": The real property described on Exhibit "A" together with such additional property as is submitted to this Declaration pursuant to Article IX.

"Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Colorado corporate law.

"Builder": any Person who purchases one or more Units from the Declarant or another Builder for the purpose of constructing dwellings for later sale to consumers, or who purchases one or more parcels of land within Dove Ranch from the Declarant for further subdivision, development, and/or resale in the ordinary course of its business.

"By-Laws": The By-Laws of Dove Ranch Home Owners Association, Inc., as they may be amended. A copy of the initial By-Laws is attached to this Declaration as Exhibit "D."

"Class 'A' Member": all Owners except the Class B Member, if any.

"Class 'B' Member": the Declarant.

"Class "B" Control Period": The period of time during which the Declarant, as the Class "B" Member, is entitled to appoint a majority of the members of the Board, as provided in Article III of the By-Laws. The Class "B" Control Period shall terminate not later than 90 days after the first to occur of the following:

(a) the date that 80% of the total number of Units permitted by applicable zoning for the property described in Exhibits "A" and "B" have been issued certificates of occupancy issued and have been conveyed to Class "A" Members other than Builders; or

(b) 20 years from the date of recording of this Declaration; or

(c) such earlier date as the Class "B" Member, in its sole discretion, executes and records a written notice voluntarily terminating the Class "B" Control Period.



"Common Area": All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners. The term shall include the Limited Common Area, as defined below.

"Common Expenses": The actual and estimated expenses which the Association incurs, or expects to incur, for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary or appropriate pursuant to the Governing Documents.

"Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing in Dove Ranch, or the minimum standards established pursuant to the Design Guidelines, Restrictions and Rules, and Board resolutions, whichever is the highest standard. Declarant initially shall establish such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within Dove Ranch change.

"Declarant": Dove Ranch, L.L.C., a Colorado limited liability company, or any successor or assign who takes title to any portion of the property described in Exhibits "A" or "B" for the purpose of development and/or sale and who the immediately preceding Declarant designates as Declarant in a recorded instrument.

"Declarant Affiliate": Any Person that controls, is controlled by, or is under common control with the Declarant, and any Person that is an owner, a member, a partner, or a shareholder of the Declarant.

"Design Guidelines": The design and aesthetic standards and guidelines for improvements and modifications to Units, including structures, landscaping and other items placed on Units, adopted pursuant to Article IV, as they may be amended.

"Development and Sale Period": The period of time during which Declarant, any Declarant Affiliate, or Builder owns property subject to this Declaration or during which the Declarant has the right to expand the Community pursuant to Section 9.1.

"General Assessment": Assessments levied on all Units subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8.2.

"Governing Documents": A collective term referring to this Declaration and any applicable Supplemental Declaration, the By-Laws, the Articles, the Design Guidelines, the Restrictions and Rules, and Board resolutions, all as they may be amended.



"Improvements": Any site work, construction, installation or modifications of structures or landscaping on a Unit, or placement of objects on a Unit outside of enclosed structures.

"Limited Common Area": A portion of the Common Area assigned, pursuant to Article XII, for the primary benefit or use of one or more, but less than all, Units.

"Member": A Person subject to membership in the Association pursuant to Section 6.2.

"Mortgage": A mortgage, a security deed, a deed of trust, or any other form of security instrument affecting title to any Unit. The term **"Mortgagee"** shall refer to a beneficiary or holder of a Mortgage.

"Neighborhood": A group of Units designated as a separate Neighborhood pursuant to Section 6.4 for purposes of representative voting as described in Section 6.3(a). A Supplemental Declaration may add Units to an existing Neighborhood or may establish a new Neighborhood. At such time as the Board determines it appropriate to implement a representative system of voting, the Owners of Units within each Neighborhood shall elect a Voting Member as provided in the By-Laws to represent and cast the votes attributable to such Units on those Association matters requiring a vote of the Class "A" Members, as further described in Section 6.3(a). Neighborhoods may include any number of Units and may include Units within noncontiguous parcels of property.

"Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

"Person": A natural person, a corporation, a partnership, a limited liability company, a trust, or any other legal entity.

"Restrictions and Rules": The initial restrictions and rules set forth in Exhibit "C," as they may be supplemented, modified and repealed pursuant to Article III.

"Service Area": A group of Units designated as a separate Service Area pursuant to this Declaration for purposes of sharing Limited Common Areas and/or receiving other benefits or services from the Association which are not provided to all Units. A Service Area may be comprised of more than one housing type and may include noncontiguous parcels of property. A Unit may be assigned to more than one Service Area. Where the context permits or requires, the term "Service Area" shall also refer to any Service Area Committee established in accordance with the By-Laws to represent the interests of Owners of Units within a Service Area. Service Area boundaries may be established and modified as provided in Section 7.3.



"Service Area Assessments": Assessments levied against the Units in a particular Service Area to fund Service Area Expenses, as described in Section 8.2.

"Service Area Expenses": The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Service Area, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Service Area.

"Special Assessment": Assessments levied in accordance with Section 8.3.

"Specific Assessment": Assessments levied in accordance with Section 8.4.

"Supplemental Declaration": An instrument recorded pursuant to Article IX which subjects additional property to this Declaration, designates Neighborhoods and Service Areas, and/or creates or imposes additional easements, restrictions and obligations on the land described in such instrument.

"Unit": A portion of Dove Ranch, whether improved or unimproved, which may be independently owned and is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon.

A parcel of land intended for development with more than one single family residence which has not been subdivided into separate platted lots at the time it is submitted to this Declaration shall be deemed to contain the number of Units designated for residential use for such parcel on the Declarant's site plan until such time as a subdivision plat is recorded subdividing all or a portion of the parcel. Thereafter, the portion encompassed by such subdivision plat shall contain the number of Units depicted on the subdivision plat and the remaining portion shall continue to be treated as provided in this paragraph.

Units may be combined or further subdivided, and boundary lines of Units may be changed, only by recording of a plat or other legal instrument further subdividing or resubdividing the parcel of property (which subdivision shall be subject to such other restrictions as may be set forth in this Declaration or the Restrictions and Rules). In the absence of recording such a legal instrument, ownership of adjacent Units by the same Owner shall not permit such Units to be treated as a single Unit for purposes of voting and assessment, notwithstanding that such Units may be improved with a single dwelling.

"Voting Member": The person entitled to cast the vote attributable to a particular Unit pursuant to Sections 6.3(a) on matters requiring a vote of the Association's membership (except



as otherwise specifically provided in this Declaration and in the By-Laws). The term "Voting Member" shall also refer to an alternate Voting Member acting in the absence of the Voting Member, and to any Owners authorized personally to cast the votes for their respective Units pursuant to Section 6.3(a).

2.2. Interpretation of Certain References.

(a) Recording. All references in the Governing Documents to a "recorded" legal instrument, or to the recording of a legal instrument, shall refer to an instrument filed, or the filing of an instrument, in the Office of the Register of Deeds for La Plata County, Colorado, or such other place as may be designated as the official location for filing documents affecting title to real estate in La Plata County in order to make them a matter of public record.

(b) Consent or Approval. All references in the Governing Documents to "consent" or "approval" shall refer to permission or approval that, unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the Person whose consent or approval is required.

(c) Discretion and Determinations. All references in the Governing Documents to "discretion" or to the right to "determine" any matter shall refer to the sole and absolute power or right to decide or act and, unless otherwise expressly limited in the Governing Documents, a Person entitled to exercise discretion or make a determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action or inaction.

(d) Time Periods. All references in the Governing Documents to a number of days shall refer to calendar days unless expressly described as business days. Business days shall mean Monday through Friday, except bank holidays.

## **PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS**

*The standards for use and conduct, maintenance, architecture, landscaping and other aesthetic matters at Dove Ranch are what give the community its identity and make it special. Each Owner and resident participates in upholding such standards and can take pride in the results of that common effort. This Declaration establishes procedures for adopting, modifying, applying and enforcing such standards while providing the flexibility for the community standards to evolve over time.*

### **Article III Use and Conduct**

3.1. Framework for Regulation.

The Governing Documents establish, as part of the general plan of development for Dove Ranch, a framework of affirmative and negative covenants, easements and restrictions that



govern Dove Ranch. Within that framework, the Association must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends, and technology. Therefore, this Article establishes rulemaking authority and procedures for modifying and expanding the initial Restrictions and Rules set forth in Exhibit "C." This Article is not intended to apply to rules and regulations relating to use and operation of the Common Area which the Board may adopt by resolution pursuant to Section 7.1(c), nor to administrative policies which the Board may adopt by resolution to interpret, define or implement the Restrictions and Rules.

3.2. Rule Making Authority.

(a) Subject to the terms of this Article and the Board's duty pursuant to Section 6.1 of the By-Laws to exercise its powers in a reasonable, fair and nondiscriminatory manner, the Board may modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules. The Board shall send notice to all Owners concerning any proposed action at least five business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

(b) In addition to the Board's authority under subsection (a) above, Members may, at an Association meeting duly called for such purpose, modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules then in effect. Any such action shall require approval of persons entitled to cast more than 50% of the total Class "A" votes in the Association. In addition, during the Development and Sale Period, any such action shall require the written consent of Declarant.

(c) Prior to any action taken under this Section becoming effective, the Board shall send a copy of the new rule or explanation of any changes to the Restrictions and Rules to each Owner. The effective date shall be not less than 30 days following distribution to Owners. The Association shall provide, without cost, a copy of the Restrictions and Rules then in effect to any requesting Member or Mortgagee.

(d) No action taken under this Article shall have the effect of modifying, repealing or expanding the Design Guidelines or any provision of this Declaration other than the initial Restrictions and Rules set forth in Exhibit "C." In the event of a conflict between the Design Guidelines and the Restrictions and Rules, the Design Guidelines shall control.

3.3. Owners' Acknowledgment and Notice to Purchasers.

**ALL OWNERS ARE GIVEN NOTICE THAT USE OF THEIR UNITS AND THE COMMON AREA IS LIMITED BY THE RESTRICTIONS AND RULES AS AMENDED, EXPANDED AND OTHERWISE MODIFIED FROM TIME TO TIME.** Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of



his or her Unit can be affected by this provision and that the Restrictions and Rules may change from time to time. All purchasers of Units are on notice that the Association may have adopted changes. Copies of the current Restrictions and Rules may be obtained from the Association.

3.4. Protection of Owners and Others.

Except as may be set forth in this Declaration (either initially or by amendment) or in the initial Restrictions and Rules set forth in Exhibit "C," all Restrictions and Rules shall comply with the following provisions:

(a) Similar Treatment. Similarly situated Owners shall be treated similarly; however, the Restrictions and Rules may vary by housing type or area.

(b) Religious and Holiday Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations inside structures on their Units of the kinds normally displayed in dwellings located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling.

(c) Signs. No rules shall regulate the content of political signs; however, rules may regulate the time, place and manner of posting such signs and the Design Guidelines may establish design criteria for such signs.

(d) Household Composition. No rule shall interfere with the freedom of Owners to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit and its fair use of the Common Area.

(e) Activities Within Dwellings. No rule shall interfere with the activities carried on within the confines of dwellings, to the extent in compliance with local laws and ordinances, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance to persons outside the Unit.

(f) Allocation of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to



those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in Article VIII.

(g) Alienation. No rule shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit; however, rules may restrict leasing of multiple Units by related or affiliated Persons and may require a minimum lease term of up to 12 months. The Association may also require that Owners use lease forms approved by the Board.

(h) Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in or on a Unit prior to the adoption of such rule if such personal property was in compliance with all rules previously in force. This exemption shall apply only during the period of such Owner's ownership of the Unit, and shall not apply to subsequent Owners who take title to the Unit after adoption of the rule.

(i) Reasonable Rights to Develop and Sell. No rule or action by the Association or Board shall unreasonably impede Declarant's right to develop Dove Ranch, nor restrict Declarant or such Builders as Declarant may so authorize from maintaining upon Common Areas and Units which they own any facilities necessary or incidental to construction or sale of Units. By way of example and not limitation, no rule shall prohibit Declarant or such Builders as Declarant may so authorize from maintaining temporary structures for use during construction of a Unit or from using any home as a sales office.

The limitations in subsections (a) through (h) of this Section 3.4 shall only limit rulemaking authority exercised under Section 3.2; they shall not apply to amendments to this Declaration adopted in accordance with Article XVIII.

#### **Article IV Architecture and Landscaping**

##### 4.1. General.

No structure or thing shall be placed, erected, or installed upon any Unit and no improvements or other work (including staking, clearing, excavation, grading and other site work, exterior alterations of existing improvements, or planting or removal of landscaping) shall take place within Dove Ranch, except in compliance with this Article and the Design Guidelines.

No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint or redecorate the interior of his or her Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structure shall be subject to approval.



All construction on Units shall comply with all applicable building codes and requirements.

This Article shall not apply to Declarant's activities, nor to activities of the Association during the Class "B" Control Period.

4.2. Design Review.

(a) By Declarant. Each Owner, by accepting a deed or other instrument conveying any interest in a Unit, acknowledges that Declarant has a substantial interest in ensuring that the improvements within Dove Ranch enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell, or lease its property in, or in the vicinity of, Dove Ranch. Therefore, each Owner agrees that no activity within the scope of this Article shall be commenced on such Owner's Unit unless and until Declarant or its designee has given its prior written approval for such activity, which approval may be granted or withheld in the Declarant's or its designee's sole discretion.

In reviewing and acting upon any request for approval, Declarant or its designee shall be acting solely in Declarant's interest and shall owe no duty to any other Person. Declarant's rights reserved under this Article shall continue so long as Declarant owns any portion of Dove Ranch or any real property subject that may be made a part of to Dove Ranch pursuant to Section 9.1 and until a certificate of occupancy has been issued for a dwelling on every Unit, unless earlier terminated in a written instrument that Declarant executes and records.

Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to (i) an design review committee appointed by the Board of Directors (the "DRC"), or (ii) a committee comprised of architects, engineers, design professionals or other persons who may or may not be Members of the Association. Any such delegation shall be in writing specifying the scope of responsibilities delegated. It shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of the foregoing entities shall be limited to such matters as Declarant specifically delegates to them.

(b) Design Review Committee. Upon delegation by Declarant or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the DRC, shall assume jurisdiction over architectural and design matters. The DRC, when appointed, shall consist of at least three, but not more than seven, persons who shall serve and may be removed



and replaced in the Board's discretion. The members of the DRC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, who may be compensated in such manner and amount if any, as the Board may establish.

Unless and until such time as Declarant delegates all or a portion of its reserved rights to the DRC or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural or design matters.

(c) Fees; Assistance. For purposes of this Article, the entity having jurisdiction in a particular case shall be referred to as the "Reviewer." The Reviewer may establish and charge reasonable fees for review of applications and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget.

4.3. Guidelines and Procedures.

(a) Design Guidelines. Declarant may prepare the initial Design Guidelines, which may contain general provisions applicable to all of Dove Ranch as well as specific provisions that vary by housing type and from one area to another within Dove Ranch. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Reviewer in considering applications. The Design Guidelines are not the exclusive basis for decisions of the Reviewer and compliance with the Design Guidelines does not guarantee approval of any application.

Declarant shall have sole and full authority to amend the Design Guidelines so long as it has any rights under this Article, as described in Section 4.2(a), notwithstanding a delegation of reviewing authority to the DRC, unless Declarant also delegates the power to amend to the DRC. Upon termination or delegation of Declarant's right to amend, the DRC shall have the authority to amend the Design Guidelines with the consent of the Board.

Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.



The initial Design Guidelines, and any subsequent changes, shall be recorded. The Reviewer shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within Dove Ranch.

(b) Procedures. Except as otherwise specifically provided in this Declaration or the Design Guidelines, no activities shall commence on any Unit until an application for approval has been submitted to and approved by the Reviewer. Such application shall include plans and specifications showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable. The Design Guidelines and the Reviewer may require the submission of such additional information as may be reasonably necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations shall not be subject to review so long as made in good faith and in accordance with the procedures set forth herein.

The Reviewer shall make a determination on each application within 30 days after receipt of a completed application and all required information. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

Until expiration of Declarant's rights under this Article, the DRC shall notify Declarant in writing within three business days after the DRC has approved any application within the scope of matters delegated to the DRC by Declarant. The notice shall be accompanied by a copy of the application and any additional information that Declarant may require. Declarant shall have 10 days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the DRC.

The Reviewer shall notify the applicant in writing of the final determination on any application within five days thereafter or, with respect to any determination by the DRC subject to Declarant's veto right, within five days after the earlier of: (i) receipt of notice of Declarant's veto or waiver thereof; or (ii) expiration of the 10-day period for exercise of Declarant's veto. In the case of disapproval, the Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections. Notice shall be deemed given when deposited in the U.S. Mail, certified mail, return receipt requested, properly addressed to the applicant at the address stated in such applicant's notice, or upon receipt if given by any other means.



In the event that the Reviewer fails to give notice of its approval or disapproval of any application within the time period required above, the applicant may notify the Reviewer by certified mail, return receipt requested, at the address for such notices set forth in the current edition of the Design Guidelines, stating that no response has been received and that unless a written response is given at the address set forth in such notice within 15 days of the Reviewer's receipt of the applicant's notice, as evidenced by the return receipt, the application shall be deemed approved. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Design Guidelines unless a written variance has been granted pursuant to Section 4.5.

If construction does not commence on a project for which Plans have been approved within nine months after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant or any aggrieved Owner.

The Reviewer may (i) pre-approve Plans for Builders and excuse such Builders from all or a portion of the application and review procedures set forth in this Section with respect to construction undertaken in accordance with such pre-approved Plans; and (ii) by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

#### 4.4. No Waiver of Future Approvals.

Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case the Reviewer may elect not to require changes to the improvements involved, but the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

#### 4.5. Variances.

The Reviewer may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic



or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) preclude the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

4.6. Limitation of Liability.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of Dove Ranch; they do not create any duty to any Person. Review and approval of any application pursuant to this Article may be made on the basis of aesthetic considerations only, and the Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners.

Neither Declarant, the Association, the Board, any committee, nor any member of any of the foregoing, shall be held liable for soil conditions, drainage or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition or quality of work of any contractor or its subcontractors, employees or agents, whether or not Declarant has approved or featured such contractor as a builder in Dove Ranch; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Unit. In all matters, the Board, the DRC, and the members of each shall be defended and indemnified by the Association as provided in Article VI of the By-Laws.

**Article V Maintenance and Repair**

5.1. Maintenance by Owners.

Except to the extent that such maintenance responsibility is otherwise assigned to the Association pursuant to Section 7.2 or any Supplemental Declaration applicable to the Unit, each Owner shall maintain his or her Unit and all landscaping and improvements comprising the Unit in a manner consistent with the Governing Documents, the Community-Wide Standard and all applicable covenants, except that there shall be no right to remove trees, shrubs or similar vegetation without prior approval pursuant to Article IV.

Each Owner shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the Unit boundary and any wall, fence or curb located on the Common Area or public right-of-way within 10 feet of the Unit boundary, to the extent those areas are not otherwise maintained by the



Association; provided, there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article IV. The planting area in the public right-of-way commonly known as the "tree lawn," "greenway," or "park strip," shall be maintained by the Owner of the adjacent Unit to the same extent and effect as if it were part of the Unit.

5.2. Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement as necessary to maintain the property to a level consistent with the Community-Wide Standard.

In the event of damage to or destruction of structures on or comprising a Unit, the Owner shall, within 180 days thereafter, complete the repair or reconstruction of the damaged structures in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IV. Prior to commencement of repair or reconstruction, the Owner shall clear the Unit of any debris and ruins and maintain it in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs not covered by insurance proceeds.

5.3. Insurance.

(a) Each Owner shall carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible. The Owner shall provide the Association with a current Certificate of Insurance and Declarations page evidencing appropriate coverage. At its discretion and upon reasonable notice to the Owner(s), the Association may assume responsibility for obtaining insurance coverage on behalf of any or all Owners and the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit(s) and Owner(s).

(b) Each Owner shall carry general liability insurance, which may be obtained as an addendum to or as part of the Owner's property insurance policy, in at least such minimum amount as may be specified in the Restrictions and Rules. The Association shall be named as an additional insured on such policy and the Owner shall provide the Association with a current Certificate of Insurance and Declarations page evidencing the appropriate coverage.



### PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

*This Declaration establishes the Association as a mechanism by which each Owner is able to participate in the governance and administration of Dove Ranch. While many powers and responsibilities are vested in the Association's board of directors in order to facilitate day-to-day management and operation, some decisions are considered of such importance that they are reserved for the Association's membership -- the owners of property in Dove Ranch.*

#### Article VI The Association and its Members

##### 6.1. Function of Association.

The Association has been established to administer Dove Ranch pursuant to the Governing Documents. Its responsibilities include, but are not limited to:

- (a) management, maintenance, operation and control of the Area of Common Responsibility; and
- (b) interpretation and enforcement of the Governing Documents; and
- (c) establishing and upholding the Community-Wide Standard; and
- (d) upon delegation or termination of Declarant's authority under Article IV, administering the design review process for Dove Ranch, as provided in that Article.

The Association may delegate authority for any of these functions as set forth in the By-Laws. The Association shall perform its functions in accordance with the Governing Documents and Colorado law.

##### 6.2. Membership.

(a) Classes of Membership. The Association initially shall have two classes of membership, Class "A" and Class "B". Class "A" Members shall be all Owners, except that Declarant shall not be considered a Class "A" Member so long as the Class "B" Membership is in effect. The sole Class "B" Member shall be the Declarant. The Class "B" membership shall terminate two years after expiration of the Class "B" Control Period or on such earlier date as the Class "B" Member, in its sole discretion, executes and records a written notice voluntarily terminating the Class "B" membership.

Upon termination of the Class "B" membership, Declarant shall hold a Class "A" membership for each Unit that it owns.



(b) Automatic Membership; Exercise of Privileges. Every Owner automatically becomes a Member of the Association upon taking title to a Unit and remains a Member as long as the Owner holds title to such Unit. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3 and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner that is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

6.3. Voting.

The voting rights of each class of membership shall be as follows:

(a) Class "A". Each Unit owned by a Class "A" Member is assigned one vote equal to that of every other Unit owned by a Class "A" Member. If the Board determines that it would facilitate operation of the Association, the Board may implement a representative system of voting in which the vote for each Unit owned by a Class "A" Member is exercised by a Voting Member elected to represent the Neighborhood in which such Unit is located, except as otherwise specified in this Declaration or the By-Laws. Until such time as the Board first calls for election of a Voting Member for any Neighborhood, the Class "A" Members owning Units within such Neighborhood shall be entitled personally to cast the votes attributable to their respective Units on any issue requiring a membership vote under the Governing Documents.

A Voting Member may vote all votes which it is entitled to cast in its discretion and may, but shall not be obligated to, poll the Class "A" Members in the Neighborhood which he represents prior to voting. On any issue other than election of directors for which the Voting Member is entitled to cast more than one vote, the Voting Member may cast all such votes as a block or split them, but shall not be entitled to fractionalize any vote.

In any situation where a Class "A" Member is entitled personally to exercise the vote for his or her Unit, if there is more than one Owner of such Unit, the vote shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

No vote shall be exercised for any property that is exempt from assessment under Section 8.7.

(b) Class "B". The Class "B" Member shall not have voting rights relative to the number of Units it owns; rather, the consent of the Class "B" Member shall be required for various actions of the Board, the membership and committees, as specifically provided elsewhere



in the Governing Documents. In addition, the Class "B" Member may appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in Article III of the By-Laws. Additional rights of the Class "B" Member are specified in the relevant sections of the Governing Documents. In addition, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the By-Laws.

6.4. Neighborhood Designations.

Exhibit "A" to this Declaration, and each Supplemental Declaration submitting additional property to this Declaration, shall initially assign the submitted property to a specific Neighborhood (by name or other identifying designation), which Neighborhood may be then existing or newly created. So long as it has the right to subject additional property to this Declaration pursuant to Section 9.1, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to re-designate Neighborhood boundaries. However, once established, two or more existing Neighborhoods shall not be combined without the consent of Owners of a majority of the Units in the affected Neighborhoods.

**Article VII Association Powers and Responsibilities**

7.1. Acceptance and Control of Association Property.

(a) The Association, through action of its Board, may acquire, hold, lease (as lessor or lessee), operate and dispose of tangible and intangible personal property and real property, subject to the provisions of Article XVII. The Association may enter into leases, licenses or operating agreements for portions of the Common Area, for such consideration or no consideration as the Board deems appropriate, to permit use of such portions of the Common Area by community organizations and by others, whether nonprofit or for profit, for the provision of goods or services for the general benefit or convenience of owners, occupants and residents of Dove Ranch.

(b) Declarant, any Declarant Affiliate, and their respective designees may convey to the Association, and the Association shall accept, personal property and fee title, leasehold or other property interests in any real property, improved or unimproved, described in Exhibits "A" or "B." Upon Declarant's written request, the Association shall reconvey to Declarant any unimproved portions of the Common Area that Declarant originally conveyed to the Association for no consideration. "Unimproved portions" shall mean those portions that have not been improved with structures.

(c) The Association shall be responsible for management, operation and control of the Common Area, subject to any covenants and restrictions set forth in the deed or other instrument transferring such property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area as it deems appropriate.



7.2. Maintenance of Area of Common Responsibility.

(a) The Association shall maintain the Area of Common Responsibility in accordance with the Community-Wide Standard. The Area of Common Responsibility shall include, but need not be limited to:

- all portions of and structures situated on the Common Area; and
- all streets and alleys within Dove Ranch unless and until such time as they are accepted by a public body for perpetual maintenance; and
- any landscaping, signage, street lights and sidewalks within public rights-of-way or sidewalk easements lying within or abutting the property subject to this Declaration, except to the extent such responsibility is assumed by a governmental body or utility provider; and
- all stormwater drainage and detention systems and improvements, ponds, streams, and riparian areas located within and serving as part of the stormwater drainage system for Dove Ranch, including any equipment used in connection with any of the foregoing; and
- such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association; and
- any property and facilities Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. Such property and facilities shall be identified by written notice from Declarant to the Association and will remain part of the Area of Common Responsibility maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

(b) The Association may maintain other property that it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(c) The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property that it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

(d) The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined



in the Board's sole discretion, to perform required maintenance or repairs. Except as provided above, the Area of Common Responsibility shall not be reduced without Declarant's prior written approval as long as Declarant owns any property described in Exhibits "A" or "B" of this Declaration.

(e) Except as otherwise specifically provided in this Declaration or any applicable Supplemental Declaration, the costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense, subject to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof. The costs that the Association incurs or expects to incur for maintenance, repair and replacement of Limited Common Areas shall be a Service Area Expense assessed against the Units within the Service Area to which the Limited Common Areas are assigned.

(f) Notwithstanding anything to the contrary in this Section, some portions of the Area of Common Responsibility may consist of open space or conservancy areas intentionally left in a natural or relatively undisturbed state. The level of maintenance that the Association provides to the Area of Common Responsibility may vary from a high level of landscaping and regular, weekly maintenance to intermittent or no maintenance, depending on the nature and intended use of the particular open space area. Open space or other natural areas may serve as habitats for a variety of native plant, animal, and insect species, and may contain creeks, fallen trees and other naturally occurring conditions, some of which may pose hazards to persons or pets coming in contact with them. Neither the Association, the Declarant, or any Builder shall have any responsibility for providing maintenance in such areas or taking action to abate such conditions.

### 7.3. Provision of Benefits and Services to Service Areas.

(a) The Declarant, on Exhibit "A" to this Declaration and/or by Supplemental Declaration submitting additional property to this Declaration, may assign the submitted property to one or more Service Areas (by name or other identifying designation) as it deems appropriate, which Service Areas may be then existing or newly created, and may require that the Association provide benefits or services to such Units in addition to those which the Association generally provides to all Units. So long as it has the right to subject additional property to this Declaration pursuant to Section 9.1, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to redesignate Service Area boundaries. All costs associated with the provision of services or benefits to a Service Area shall be assessed against the Units within the Service Area as a Service Area Assessment.

(b) In addition to Service Areas which Declarant may designate, any group of Owners may petition the Board to designate their Units as a Service Area for the purpose of receiving from the Association (a) special benefits or services which are not provided to all Units, or (b) a



higher level of service than the Association otherwise provides. Upon receipt of such petition signed by Owners of a majority of the Units within the proposed Service Area, the Board shall investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the charge to made therefor, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Unit among all Service Areas receiving the same service). Upon written approval of the proposal by Owners of at least 67% of the Units within the proposed Service Area, the Association shall provide the requested benefits or services on the terms set forth in the proposal. The cost and administrative charges associated with such benefits or services shall be assessed against the Units within such Service Area as a Service Area Assessment, subject to the right of the Owners of Units within the Service Area to veto the budget for their Service Area as provided in Section 8.2.

7.4. Insurance; Repair after Loss or Damage.

(a) Coverage and Premiums. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect insurance as required under the By-Laws. Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses, except that (i) premiums for property insurance on Units within a Service Area shall be a Service Area Expense; and (ii) premiums for insurance on Limited Common Areas shall be a Service Area Expense of the Service Area to which such Limited Common Areas are assigned, unless the Board reasonably determines that other treatment of the premiums is more appropriate.

(b) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

The Association shall cause damaged improvements on the Common Area to be repaired or reconstructed unless a decision not to repair or reconstruct is approved within 60 days after the loss or damage by Owners of at least 67% of the Units, and during the Development and Sale Period, by the Declarant. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and



thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Owners of Units within the insured Service Area, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the membership, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 7.4(a).

7.5. Compliance and Enforcement

(a) Every Owner and occupant of a Unit shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents as set forth in this Section 7.5 and elsewhere in the Governing Documents.

(b) The Board may impose the following sanctions only after notice and a hearing in accordance with the procedures set forth in Article VIII of the By-Laws:

(i) imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit; and

(ii) suspending the vote attributable to a violating Owner's Unit;

(iii) suspending the privilege of using any recreational facilities within the Common Area;

(iv) suspending any services that the Association provides to an Owner or the Owner's Unit, during any period that the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association or for a reasonable period for other violations of the Governing Documents; and

(v) requiring an Owner, at the Owner's expense, to perform maintenance or repairs, or to remove any structure, item, or improvement on such Owner's Unit in violation of the Governing Documents, and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee may enter the property and perform such maintenance or repairs, or remove the violating structure, item, or improvement, and restore the property to substantially the same condition as it was in prior to such violation, and any such action shall not be deemed a trespass;



(vi) without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and the Design Guidelines from continuing or performing any further activities in Dove Ranch; and

(vii) record a Notice of Violation and levy a Specific Assessment pursuant to Section 8.4 to cover costs which the Association incurs to bring a Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of an Owner or occupant of a Unit, their guests or invitees.

(c) In addition, the Association, acting through the Board or its designee, may take the following action to enforce the Governing Documents without the necessity of compliance with the procedures set forth in Article VIII of the By-Laws:

(i) exercising self-help in any situation which requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); and/or

(ii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both, subject to the procedures set forth in Article XIV, if applicable.

(d) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

(e) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action; or

(ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or



(iv) it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

(f) The Association, by contract or other agreement, may enforce applicable county ordinances and permit La Plata County to enforce ordinances within Dove Ranch for the benefit of the Association and its Members.

**7.6. Implied Rights; Board Authority.**

The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. All rights and powers of the Association may be exercised by the Board without a vote of the membership except to the extent that the Governing Documents or Colorado law specifically require a vote of the membership.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Association or its Members.

In exercising the rights and powers of the Association, making decisions on behalf of the Association, and conducting the Association's affairs, Board members shall be subject to, and their actions shall be judged in accordance with, the standards set forth in Article VI of the By-Laws.

**7.7. Safety and Security.**

The Association may, but shall not be obligated to, maintain or support certain activities within Dove Ranch designed to enhance the level of safety or security that each person provides for himself and his property. However, no representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to Dove Ranch or any portion thereof, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Neither the Association, the Declarant, the Builders, nor the members, partners, affiliates, officers, directors, agents or employees of any of the foregoing, shall in any way be considered



insurers or guarantors of safety or security within Dove Ranch, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in Dove Ranch and each of them assumes all risks of personal injury and loss or damage to their property, including Units and their contents, resulting from acts of third parties.

7.8. Provision of Services to Units.

The Association may provide, or provide for, services and facilities for the Owners and their Units, and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use or service fees for any such services and facilities provided at the option of an Owner, or may include the costs thereof in the Association's budget as a Common Expense and assess it as part of the General Assessment if provided to all Units. By way of example, such services and facilities might include trash collection, landscape maintenance; pest control service; cable, digital, satellite or similar television service; telecommunication and internet connection services; security monitoring; utilities; and other services and facilities.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board shall be permitted to modify or cancel existing contracts for services in its discretion, unless the provision of such services is otherwise required by the Governing Documents. Non-use of services provided to all Owners or Units as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

7.9. Relationships with Other Properties.

The Association may enter into contractual agreements or covenants to share costs with any neighboring property to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Area maintenance.

7.10. Facilities and Services Open to the Public.

Certain facilities and areas within Dove Ranch may be open for use and enjoyment of the public. Such facilities and areas may include, by way of example: greenbelts, trails and paths, parks, and other neighborhood spots conducive to gathering and interaction, roads, sidewalks, and medians. Declarant may designate such facilities and areas as open to the public at the time Declarant makes such facilities and areas a part of the Area of Common Responsibility or the Board may so designate at any time thereafter.



7.11. Education and Training.

As a Common Expense, the Association may provide educational, training, and recreational opportunities within Dove Ranch, including providing funding and permitting Common Area facilities to be used for such purposes. The Association may provide such activities as a tool for fostering Owner and resident awareness of Dove Ranch's governance, operations, and concerns, as well as for the purpose of fostering a sense of community and interaction. The Association also shall fund and support the education and training for officers and directors as provided in the By-Laws.

**Article VIII Association Finances**

8.1. Authority to Levy Assessments for Association Expenses.

(a) Purposes and Types. There are hereby created, and the Association is hereby authorized to levy, assessments for expenses incurred or anticipated to be incurred by the Association in performing its responsibilities and exercising its rights and powers under this Declaration, any Supplemental Declaration, the Articles and the Bylaws, specifically including but not limited to: expenses of maintaining, repairing, replacing, improving, operating, and insuring the Area of Common Responsibility, including amounts due to third parties who perform such tasks on behalf of the Association, and the costs of labor, equipment, materials, management, supervision, and utilities; taxes, if any, imposed on the Association or the Common Area; the cost of insurance and fidelity bond coverage obtained pursuant to Section 7.4; the cost of water or other utilities provided to the Area of Common Responsibility, and to Units if metered through a master meter and billed to the Association; expenses of monitoring and enforcing compliance with the provisions of the Governing Documents; expenses arising out of the Association's indemnification obligations; expenses arising out of any measure undertaken to enhance the safety of the Owners and occupants of Units and the Properties; expenses incurred in exercising design control under Article IV; expenses of managing the Association, including compensation of management personnel, maintaining books and records, handling Association funds, providing financial reports, and corresponding with Members; administrative expenses such as postage, copying expense, office supplies and equipment; legal, accounting, and other professional fees; and such other expenses as the Board deems necessary or desirable to keep the Properties in good, clean, and attractive condition and to maintain and enhance property values and marketability of Units within the Properties.

There shall be four types of assessments: (a) General Assessments; (b) Service Area Assessments; (c) Special Assessments as described in Section 8.3; and (d) Specific Assessments as described in Section 8.4. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments. Such assessments shall commence at the time and in the manner set forth in Section 8.5.



(b) Personal Obligation and Lien. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of Dove Ranch, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish by resolution, not to exceed 18% per annum), late charges as determined by Board resolution (subject to the limitations of Colorado law), costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner, and a charge and continuing lien upon each Unit as provided in Section 8.6, until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no Mortgagee who obtains title to a Unit by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments that accrued prior to such acquisition of title.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay General Assessments and Service Area Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfall.

No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his or her Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Within 10 business days after receipt of a written request therefor, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth the amount of any unpaid assessments or other charges levied on the Unit. Such certificate shall be binding on the Association and every Owner. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(c) Declarant's Obligations for Assessments. During the Class "B" Control Period, Declarant may satisfy its obligation for General Assessments and Special Assessments for Common Expenses on any Units that it owns in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of the Class "B" Control Period, Declarant shall pay assessments on its unsold Units in the same manner as any other Owner.



8.2. Budgeting and Allocating Association Expenses.

(a) Preparation of Budget. At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year. In addition, the Board shall prepare a separate budget for each Service Area reflecting the estimated Service Area Expenses that the Association expects to incur for the benefit of such Service Area in the coming year.

The estimated expenses in each budget shall include, in addition to any operating reserves, a reasonable contribution to a reserve fund for repair and replacement of any capital items to be maintained as a Common Expense or as a Service Area Expense of the Service Area for whom the budget is prepared, as applicable. In determining the amount of such reserve contribution, the Board shall take into account the number and nature of replaceable assets, the expected useful life of each, the expected repair or replacement cost, and the contribution required to fund the projected need by an annual contribution over the useful life of the asset.

Each budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of assessments.

(b) Calculation of General Assessments. Upon determining the total amount of income required to be generated through the levy of General Assessments, the Board shall establish the General Assessment at an equal rate per Unit, subject to the limitation set forth in Section 8.5(a).

Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of a subsidy. Any such subsidy may be treated as a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy and the characterization thereof shall be conspicuously disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

(c) Calculation of Service Area Assessments. Except as may otherwise be provided in this Declaration or any applicable Supplemental Declaration, the total amount of estimated Service Area Expenses for each Service Area shall be allocated equally among all Units in the benefited Service Area which are subject to assessment under Section 8.5, to be levied as a Service Area Assessment; provided, unless otherwise specified in the applicable Supplemental Declaration, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures, may be levied on each of the benefited Units in proportion to the benefit received, as the Board may reasonably determine.



All amounts that the Association collects as Service Area Assessments shall be held in trust for and expended solely for the benefit of the Service Area for which they were collected and shall be accounted for separately from the Association's general funds.

(d) Notice of Budget and Assessment; Right to Disapprove. Within 30 days following the Board's adoption of any budget, the Board shall send a summary of the applicable budget, together with notice of the amount of the General Assessment or Service Area Assessment to be levied pursuant to such budget, to each Owner to be assessed thereunder. The Common Expense budget shall automatically become effective unless disapproved at a meeting by persons entitled to cast at least 75% of the total Class "A" votes in the Association and by the Class "B" Member, if such exists. The Service Area Expense budget for each Service Area shall automatically become effective unless disapproved at a meeting by Owners of at least 67% of the Units within the Service Area, except that the right to disapprove a Service Area budget shall apply only to those line items which are attributable to services or benefits requested by the Service Area and shall not apply to any item which the Governing Documents require to be assessed as a Service Area Expense.

There shall be no obligation to call a meeting for the purpose of considering any budget except, in the case of the Common Expense budget, on petition of the Voting Members as provided for special meetings in Section 2.4 of the By-Laws, and in the case of a Service Area budget, on petition of Owners of at least two-thirds (2/3) of the Units within the Service Area. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is rejected or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

(e) Budget Revisions. The Board may revise the budget and adjust the General Assessment or Service Area Assessments from time to time during the year, subject to the notice and ratification requirements set forth above.

### 8.3. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted under Section 8.2. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any Service Area if such Special Assessment is for Service Area Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of persons entitled to cast more than 50% of the total votes allocated to



Units which will be subject to such Special Assessment, and during the Development and Sale Period, the written consent of Declarant. Special Assessments shall be levied equally on all Units subject to such assessment.

8.4. Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to the Unit upon request of the Owner pursuant to any menu of special services which the Association may offer (which might include the items identified in Section 7.8). Specific Assessments for special services may be levied in advance of the provision of the requested service;

(b) for monetary fines imposed pursuant to Section 7.5 and to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing in accordance with the By-Laws, before levying any Specific Assessment under this subsection (b); and

(c) pursuant to Section 8.8.

8.5. Limitation on Assessment Liability; Payment of Assessments.

(a) Notwithstanding anything to the contrary in this Declaration, the average annual assessment liability of each Unit (including the General Assessment, any Service Area Assessment, and any Special Assessment levied on the Unit but excluding Specific Assessments and optional user fees) for Common Expenses other than insurance premiums paid by the Association, shall not exceed the greater of \$400.00 or the amount authorized pursuant to Section 38-33.3-116(3) of the Colorado Common Interest Ownership Act, as it may be amended from time to time.

(b) Except as otherwise provided herein, the obligation to pay assessments shall commence as to each Unit on the first day of the month following: (i) the month in which the Unit is made subject to this Declaration, or (ii) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual General Assessment and Service Area Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.



(c) Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the General Assessment and any Service Area Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

8.6. Lien for Assessments.

(a) Subject to Colorado law, as it may be amended, the Association shall have a lien against each Unit in favor of the Association to secure payment of assessments, as well as interest, late charges (subject to the limitations of Colorado law), and costs of collection (including attorneys fees and expenses). Subject to the limitations of Colorado law, such lien shall be superior to all other liens, except (i) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (ii) the lien or charge of any recorded first Mortgage (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value.

(b) If any assessment or other charge due to the Association remains unpaid for a period of 30 days or longer after the due date thereof, the Association may perfect its lien by executing and recording a claim of lien setting forth the amount due. The lien may be foreclosed through judicial or, to the extent allowed by law, nonjudicial foreclosure proceedings in accordance with Colorado law, as it may be amended.

(c) The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same, in addition to pursuing any and all remedies allowed by law to enforce the lien.

(d) Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner of the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses



collectible from Owners of all Units subject to assessment under Section 8.5, including such acquirer, its successors and assigns.

8.7. Exempt Property.

The following property shall be exempt from payment of General Assessments, Service Area Assessments, and Special Assessments:

(a) All Common Area and such portions of the property owned by Declarant as are included in the Area of Common Responsibility; and

(b) Any property dedicated to and accepted by any governmental authority or public utility.

In addition, Declarant and/or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for tax-exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c) of the Internal Revenue Code.

8.8. Capitalization of Association.

(a) Authority. Except as provided in Section 8.8(b), upon each transfer of record title to a Unit, a contribution shall be made by or on behalf of the new Owner to the working capital of the Association in the amount of One Hundred Dollars (\$100.00), or such greater amount as the Board may establish from time to time, not to exceed 100% of the Maximum Annual Assessment for the year in which the transfer of title occurs. This amount shall be in addition to, not in lieu of, the annual General Assessment and any applicable Service Area Assessment and shall not be considered an advance payment of such assessments, but rather shall be considered a Specific Assessment secured by the Association's lien for assessments under Section 8.6. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to this Declaration and the By-Laws.

(b) Exempt Transfers. The following transfers shall be exempt from the contribution required under subsection (a) of this Section:

(i) by or to Declarant;

(ii) by a Builder who held title solely for purposes of development and resale;

(iii) by a co-owner to any Person who was a co-owner immediately prior to such transfer;



(iv) to the Owner's estate, surviving spouse or child upon the death of the Owner;

(v) to an entity wholly owned by the grantor; provided, upon any subsequent transfer of an ownership interest in such entity, the contribution shall become due; or

(vi) to an institutional lender pursuant to a Mortgage or a deed in lieu of a foreclosure or upon a transfer pursuant to a foreclosure sale under a Mortgage.

#### **PART FOUR: COMMUNITY DEVELOPMENT**

*The Declaration reserves various rights to the developer in order to facilitate the smooth and orderly development of Dove Ranch and to accommodate changes in the master plan that inevitably occur as a community such as Dove Ranch grows and matures.*

#### **Article IX Expansion of the Community**

##### **9.1. Expansion by Declarant.**

Declarant may from time to time expand Dove Ranch to include all or any portion of the property described in Exhibit "B" by recording a Supplemental Declaration describing the additional property and stating the intent to submit it to the provisions of this Declaration. A Supplemental Declaration recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant.

Declarant's right to expand Dove Ranch pursuant to this Section shall expire when all property described in Exhibit "B" has been subjected to this Declaration or 20 years after this Declaration is recorded, whichever is earlier. Until then, Declarant may transfer, assign, or otherwise permit this right to be exercised by any Person or Persons who are the developers of at least a portion of the real property described in Exhibits "A" or "B." Any such transfer, assignment or permission shall be memorialized in a written, recorded instrument executed by Declarant and the Person to whom it is assigned.

Nothing in this Declaration shall be construed to require Declarant or any successor to subject additional property to this Declaration or to develop any of the property described in Exhibit "B" in any manner whatsoever.

##### **9.2. Expansion by the Association.**

The Association may also expand Dove Ranch to include additional property by recording a Supplemental Declaration describing the additional property and the intent to submit



it to the provisions of this Declaration. Any such Supplemental Declaration shall require the affirmative vote of persons entitled to cast more than 50% of the Class "A" votes in the Association represented at a meeting duly called for such purpose, the consent of the owner of the property, and the consent of the Declarant during the Development and Sale Period. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property and by the Declarant, if the Declarant's consent is necessary.

9.3. Additional Covenants and Easements.

Declarant may subject any portion of Dove Ranch to additional covenants and easements, including covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Service Area Assessments. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subjected to this Declaration. If the property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.4. Effect of Filing Supplemental Declaration.

A Supplemental Declaration shall be effective upon recording unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

**Article X Additional Rights Reserved to Declarant**

10.1. Withdrawal of Property.

During the Development and Sale Period, Declarant reserves the right to amend this Declaration for the purpose of removing any portion of the real property which has not yet been improved with structures from the coverage of this Declaration, provided such withdrawal does not reduce the total number of Units then subject to the Declaration by more than 10%. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

10.2. Development and Sales Activities.

During the Development and Sale Period:



(a) Declarant and Builders whom the Declarant so authorizes may construct and maintain upon portions of the Common Area such facilities and activities as, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, model units, and sales offices. Declarant and authorized Builders shall have easements for access to and use of such facilities at no charge. Such right shall specifically include the right of Declarant and its designees to use Common Area facilities for an information center and/or for administrative, sales and business offices at no charge. Upon termination of such use, the Declarant or Builders shall, at their sole expense, restore any portion of the Common Area disturbed by their respective activities under this Section to a condition consistent with the Community-Wide Standard.

(b) Declarant and its employees, agents and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

(c) Every Person that acquires any interest in Dove Ranch acknowledges that Dove Ranch is a master planned community, the development of which is likely to extend over many years, and recognizes that there may be changes in uses or density for the property described in Exhibits "A" and "B" and changes in the Master Plan from time to time. The Declarant reserves the right to pursue such changes through appropriate land use approvals.

10.3. Right to Veto Changes in Standards.

During the Development and Sale Period, the Declarant shall have the right to veto any amendment to or modification of the Restrictions and Rules or Design Guidelines.

10.4. Additional Covenants.

No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of Dove Ranch without Declarant's review and written consent during the Development and Sale Period, and thereafter the written consent of the Association. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed and recorded by Declarant or the Association, as appropriate.

10.5. Right to Transfer or Assign Declarant Rights.

Any or all of Declarant's special rights and obligations set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument signed by Declarant and the transferee and recorded. The foregoing sentence shall not



preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

10.6. Exclusive Rights To Use Name of Community.

No Person other than Declarant, its authorized agents, and Builders, shall use the name "Dove Ranch," any derivative of such names, or associated logos or depictions, in any electronic, printed or promotional media or material without Declarant's prior written consent. However, Owners may use the name "Dove Ranch" in printed or promotional matter where such term is used solely to specify that particular property is located within Dove Ranch. The Association shall also be entitled to use the words "Dove Ranch" in its name.

10.7. Right to Notice of Design or Construction Claims.

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within Dove Ranch in connection with or in anticipation of any potential or pending claim, demand or litigation involving such design or construction unless Declarant and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection pursuant to the rights reserved in Section 11.6.

**PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY**

*The nature of living in a planned community requires the creation of special property rights and provisions to address the needs and responsibilities of the Owners, Declarant, the Association, and others within or adjacent to the community.*

**Article XI Easements**

11.1. Easements in Common Area.

Declarant grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) the Governing Documents and any other applicable covenants;
- (b) any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) the Board's right to:



- (i) adopt rules regulating use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
  - (ii) suspend the right of an Owner to use recreational facilities within the Common Area pursuant to Section 7.5;
  - (iii) dedicate or transfer all or any part of the Common Area, subject to Section 17.3;
  - (iv) impose reasonable membership requirements and charge reasonable initiation fees, admission or other use fees for the use of any recreational facility situated upon the Common Area;
  - (v) permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of use fees established by the Board and designate other areas and facilities within the Area of Common Responsibility as open for the use and enjoyment of the public; and
  - (vi) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Section 17.3; and
- (d) the rights of certain Owners to the exclusive use of those portions of the Common Area designated "Limited Common Areas," as described in Article XII.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

11.2. Easements of Encroachment and Fence Maintenance.

(a) Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area or right-of-way and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than six inches, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to reckless disregard for the boundary or willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.



(b) Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area or right-of-way and between adjacent Units, as reasonably necessary to install, maintain, repair and replace any fence constructed on or within one foot of the boundary line of any Unit.

11.3. Easements for Utilities, Etc.

(a) Installation and Maintenance. Declarant reserves for itself, during the Development and Sale Period, and grants to the Association and all utility providers, perpetual non-exclusive easements throughout Dove Ranch (but not through a structure) to the extent reasonably necessary for the purpose of:

(i) installing utilities and infrastructure to serve Dove Ranch, cable and other systems for sending and receiving data and/or other electronic signals, security and similar systems, walkways, pathways and trails, drainage systems, street lights and signage on property which Declarant or any Builder owns or within public rights-of-way or easements reserved for such purpose on recorded plats or in other recorded documents; and

(ii) inspecting, maintaining, repairing and replacing the utilities, infrastructure and other improvements described in Section 11.3(a)(i); and

(iii) access to read utility meters.

(b) Specific Easements. Declarant also reserves for itself the non-exclusive right and power to grant and record such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described in Exhibits "A" and "B." The Owner of any property to be burdened by any easement granted pursuant to this subsection (b) shall be given written notice in advance of the grant. The location of the easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed or conditioned.

(c) Minimal Interference. All work or other activity associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.



11.4. Easements to Serve Additional Property.

Declarant hereby reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property.

Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of their respective actions in connection with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof benefiting from such easement is not made subject to this Declaration, Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such Property.

11.5. Easements for Maintenance, Emergency and Enforcement.

Declarant grants to the Association easements over Dove Ranch as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and designees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

11.6. Easement to Inspect and Right to Correct.

Declarant reserves for itself, the Builders, and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the property within Dove Ranch, including Units, and a perpetual, nonexclusive easement of access throughout Dove Ranch to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner, which consent shall not unreasonably be withheld. The person exercising this easement shall promptly repair, at such person's own expense, any damage resulting from such exercise.



**Article XII Limited Common Areas**

12.1. Purpose.

Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants of particular Units. By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, landscaped areas and other portions of the Common Area primarily serving a limited number of Units. All costs associated with ownership, maintenance, repair, replacement, management, operation and insurance of a Limited Common Area shall be a Service Area Expense allocated among the Owners in the Service Area to which the Limited Common Area is assigned.

12.2. Designation.

Initially, any Limited Common Area shall be designated as such in the deed conveying such area to the Association or on the subdivision plat relating to such Common Area; provided, however, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Units, so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1.

Thereafter, a portion of the Common Area may be assigned as Limited Common Area upon approval of (a) the Board, (b) persons entitled to cast a majority of the total Class "A" votes in the Association, and (c) persons entitled to cast a majority of the Class "A" votes attributable to Units to which the Limited Common Area is proposed to be assigned or reassigned. During the Development and Sale Period, any such assignment or reassignment shall also require Declarant's written consent.

12.3. Use by Others.

Upon approval of a majority of Owners of Units to which any Limited Common Area is assigned, the Association may permit Owners of other Units to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Service Area Expenses attributable to such Limited Common Area.

**Article XIII Party Walls and Other Shared Structures**

13.1. General Rules of Law to Apply.

Each wall, fence, driveway or similar structure built as a part of the original construction on the Units that serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or



omissions shall apply thereto. Any dispute arising concerning a party structure shall be handled in accordance with the provisions of Article XIV.

13.2. Maintenance; Damage and Destruction.

Except to the extent that a party structure is designated Limited Common Area or responsibility for maintenance or repair is otherwise assigned to or assumed by the Association pursuant to this Declaration, any applicable Supplemental Declaration, or written agreement:

(a) the Owners of the Units separated by a fence that constitutes a party structure shall each be responsible for maintaining that side of the fence facing such Owner's Unit; and

(b) to the extent that any necessary repair or replacement of a party structure affects both sides of the structure, it shall be the joint responsibility of the Owners of both Units and either Owner may perform the necessary maintenance or repair and, within 30 days after receipt of written evidence of the total cost incurred, the other Owner shall reimburse the Owner who has incurred such cost for one half of the reasonable cost he or she has incurred in performing such maintenance or repair.

Notwithstanding the above, if maintenance or repairs to a party structure are necessitated by the conduct of the Owners, occupants or guests of only one of the Units that share such party structure, then the Owner of such Unit shall be responsible for the necessary maintenance or repairs.

In the event that any Owner installs, constructs, or erects a fence on the common boundary line such Owner's Unit and an adjacent Unit, and the owner of the adjacent Unit thereafter attaches another section of fence to it or otherwise makes use of such fence for the purpose of enclosing all or a portion of the adjacent Unit, then such fence shall become a party fence for the purpose of each Owner's responsibility for contributing to the maintenance, repair, and replacement of such fence. However, nothing herein shall confer any ownership interest in or right to remove any such fence on the Owner of the adjacent Unit.

In the event that either Owner fails to provide necessary maintenance or repairs to a party structure within 10 days after the date of written notice from the Association advising of the need for such maintenance or repairs, the Association shall have the right to provide the necessary maintenance or repairs and assess the costs incurred against the responsible Owner(s) and his (or their) Unit(s).

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title. Any Owner entitled to contribution hereunder shall have the right to file a lien against the Unit of the Owner obligated



to contribute to secure any amounts due, which lien shall be enforceable in the same manner as a mortgage under Colorado law.

## PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

*The success of Dove Ranch as a community in which people enjoy living and playing requires good faith efforts to resolve disputes amicably, attention to and understanding of relationships within the community and with our neighbors, and protection of the rights of others who have an interest in the community.*

### Article XIV Dispute Resolution and Limitation on Litigation

#### 14.1. Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Association and its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving Dove Ranch without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 14.2 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "**Claim**" shall refer to any claim, grievance or dispute arising out of or relating to

(i) the interpretation, application, or enforcement of the Governing Documents; or

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or

(iii) the design or construction of improvements within Dove Ranch, other than matters of aesthetic judgment under Article IV, which shall not be subject to review;

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 14.2:

(i) any suit by the Association to collect assessments or other amounts due from any Owner; and

(ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to



maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Declaration (relating to creation and maintenance of community standards); and

(iii) any suit which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; and

(iv) any suit in which any indispensable party is not a Bound Party; and

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 14.2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

14.2. Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("**Claimant**") against another Bound Party ("**Respondent**") shall give written notice to each Respondent and to the Board stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim; and

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); and

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice described in Section 14.2(a) (or within such other period as the parties may agree upon), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Charlotte, Colorado metropolitan area.



If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Party shall bear its own costs of the mediation, including attorneys fees, and each Party shall share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

#### 14.3. Initiation of Litigation by Association.

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of persons entitled to cast 75% of the total Class "A" votes in the Association, except that no such approval shall be required for actions or proceedings:

- (a) initiated during the Class "B" Control Period; or
- (b) initiated to enforce the provisions of the Governing Documents, including collection of assessments and foreclosure of liens; or
- (c) initiated to challenge ad valorem taxation or condemnation proceedings; or
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.



This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

#### **Article XV Mortgage Provisions**

##### 15.1. Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates (thereby becoming an "Eligible Mortgage Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of Dove Ranch or which affects any Unit on which there is an Eligible Mortgage held, insured, or guaranteed by such Eligible Mortgage Holder; or

(b) Any delinquency in the payment of assessments or charges owed for a Unit subject to the Eligible Mortgage of such Eligible Mortgage Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or occupant which is not cured within 60 days; or

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action that would require the consent of a specified percentage of Eligible Mortgage Holders.

##### 15.2. No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

##### 15.3. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.



## **PART SEVEN: CHANGES IN THE COMMUNITY**

*Communities such as Dove Ranch are dynamic and need the ability to monitor and adjust as circumstances, technology, needs and desires, and applicable laws change over time. Dove Ranch must be able to adapt to these changes while protecting the things that make it unique and a desirable place to live.*

### **Article XVI Changes in Ownership of Units**

#### **16.1. Notice of Transfer.**

Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The Person transferring title shall continue to be jointly and severally responsible with the Person accepting title for all obligations of the Owner, including assessment obligations, until the date upon which the Board receives such notice, notwithstanding the transfer of title.

#### **16.2. Administrative Transfer Fee.**

The Association may charge an "Administrative Transfer Fee" on transfer of title to each Unit to cover the administrative expenses associated with updating the Association's records. Any such Administrative Transfer Fee shall be reasonably determined by the Board to cover its costs, including, but not limited to, any fees charged for updating records by a management company retained by the Association, except that any administrative fee charged on the initial sale of a Unit by a Builder shall not exceed \$100.00.

### **Article XVII Changes in Common Area**

#### **17.1. Condemnation.**

If any part of the Common Area shall be taken by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award. Any condemnation award shall be payable to the Association and shall be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking Declarant, during the Development and Sale Period, and persons entitled to cast at least 75% of the total Class "A" vote of the Association shall otherwise agree. Any



such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.4(c) regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be treated in the same manner as if proceeds from the sale of Common Area pursuant to Section 17.3.

17.2. Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action seeking the partition of any portion of the Common Area without the written consent of persons entitled to cast at least 75% of the Class "A" votes in the Association and the written consent of the Declarant, during the Development and Sale Period. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration, subject to such approval as may be required under Section 17.3.

17.3. Mortgaging, Conveyance or Dedication of Common Area.

The Association may dedicate portions of the Common Area to La Plata County, Colorado, or to any other local, state, or federal governmental or quasi-governmental entity, upon approval of the Board and, during the Development and Sale Period, the written consent of the Declarant. Otherwise, the Association may subject Common Area to a security interest, or may transfer or convey Common Area as follows:

(a) if Common Area other than Limited Common Area, upon the written direction of persons entitled to cast at least 75% of the total Class "A" votes in the Association and the Declarant during the Development and Sale Period; or

(b) if Limited Common Area, upon written agreement of all Owners of Units to which the Limited Common Area is assigned.

The proceeds from the sale or financing of Common Area other than Limited Common Area shall be an asset of the Association to be used as the Board determines. The proceeds from the sale or financing of Limited Common Area shall be disbursed as provided by the agreement authorizing such sale or security interest.

No sale or encumbrance of Common Area may deprive any Unit of rights of access or support.



**Article XVIII Amendment of Declaration**

18.1. By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration, until termination of the Class "B" Control Period, Declarant may unilaterally amend, restate, revise or supersede this Declaration for any purpose. Thereafter, until termination of the Development and Sale Period, Declarant may unilaterally amend, restate, revise or supersede this Declaration for the purpose of (a) bringing any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) enabling any reputable title insurance company to issue title insurance coverage on the Units; (c) enabling any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans to make, purchase, insure or guarantee mortgage loans on the Units; or (d) complying with the requirements of any state or federal law or any local, state or federal governmental agency. However, any unilateral amendment by Declarant pursuant to this Section shall not materially adversely affect the allocation of voting rights or assessment burdens among the Units or title to any Unit unless the Owner shall consent in writing.

18.2. By Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended, restated, revised or superseded only by the affirmative vote or written consent, or any combination thereof, of persons entitled to cast at least 67% of the total Class "A" votes in the Association, including at least 67% of the Class "A" votes held by Members other than Declarant, and during the Development and Sale Period, the Declarant's consent.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

18.3. Validity and Effective Date.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.



Any amendment shall become effective upon recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

18.4. Exhibits.

Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by this Article. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration that refer to such exhibits.

Article XIX Termination of Declaration

This Declaration may be terminated only upon recording a termination agreement signed by the then Owners of at least 80% of the Units. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 17th day of June, 2004.

DECLARANT: DOVE RANCH, L.L.C., a Colorado limited liability company

By: [Signature]
Bradley Elder, Manager

STATE OF COLORADO )
COUNTY OF LA PLATA )

The foregoing instrument was acknowledged before me this 16th day of June, 2004, by Bradley Elder, Manager of Dove Ranch, LLC, a Colorado limited liability company.



[Signature]
Notary Public

My Commission Expires: 8-10-2005



**EXHIBIT "A"**

**Land Initially Submitted**

ALL THOSE TRACTS OR PARCELS OF LAND lying and being in La Plata County, Colorado, and being more particularly described on that certain plat of Dove Ranch Subdivision recorded at Reception Number: 886935 in the Office of the Clerk and Recorder of La Plata County, Colorado, as it may be revised and amended.

The Units within the above-described property shall be assigned to Neighborhood No. 1 and Service Area No. 1, as described in the Declaration.





**EXHIBIT "B"**

**Land Subject to Annexation**

ALL THAT TRACT OR PARCEL OF LAND lying and being in La Plata County, Colorado, and being more particularly described as follows:

**TRACT I**

LOTS 3 AND 4 OF SECTION 1, TOWNSHIP 34 NORTH, RANGE 7 WEST, N.M.P.M.

**TRACT II**

A TRACT OF LAND LYING AND BEING IN THE NE1/4NE1/4, ALSO KNOWN AS LOT 1, OF SECTION 2, TOWNSHIP 34 NORTH, RANGE 7 WEST, N.M.P.M., AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT, WHENCE THE NORTHEAST CORNER OF SAID SECTION 2, TOWNSHIP 34 NORTH, RANGE 7 WEST, N.M.P.M., BEARS NORTH 75° 39' EAST, 620.69 FEET;  
THENCE RUNNING NORTH 41° 09' WEST, 52.43 FEET;  
THENCE RUNNING NORTH 27° 32' WEST, 70.90 FEET;  
THENCE RUNNING NORTH 10° 40' EAST, 49.78 FEET, MORE OR LESS, TO THE ACCEPTED NORTH BOUNDARY LINE OF THE SAID NE1/4NE1/4 OF SECTION 2;  
THENCE RUNNING ALONG SAID ACCEPTED NORTH BOUNDARY LINE, SOUTH 89° 47' WEST, 334.35 FEET, MORE OR LESS, TO THE EAST RIGHT OF WAY LINE OF STATE HIGHWAY NO. 84, BEING THE NORTHWEST CORNER OF SAID TRACT;  
THENCE RUNNING ALONG SAID EAST RIGHT OF WAY LINE OF STATE HIGHWAY NO. 84, SOUTH 9° 54' WEST, 502.24 FEET, BEING THE SOUTHWEST CORNER OF SAID TRACT;  
THENCE RUNNING NORTH 57° 12' EAST, 352.03 FEET;  
THENCE RUNNING NORTH 53° 22' EAST, 96.29 FEET;  
THENCE RUNNING NORTH 47° 31' EAST, 143.15 FEET, THE SOUTHWEST CORNER AND POINT OF BEGINNING.



**TRACT III**

A TRACT OF LAND BEING THAT PORTION OF TRACT I DESCRIBED IN THE DEED RECORDED IN THE OFFICE OF THE LA PLATA COUNTY CLERK AND RECORDER UNDER RECEPTION NO. 406821, SAID TRACT BEING LOCATED IN LOT 1 (NE1/4NE1/4) OF SECTION 2, TOWNSHIP 34 NORTH, RANGE 7 WEST, N.M.P.M., AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 2, A 2-1/2" X 30" PIPE WITH A 3-1/4" DIAMETER ALUMINUM CAP STAMPED COLO. L.S. 12027;

THENCE SOUTH 10° 05' 10" EAST, A DISTANCE OF 1338.36 FEET TO THE N1/16 CORNER COMMON TO SECTIONS 1 AND 2, TOWNSHIP 34 NORTH, RANGE 7 WEST, N.M.P.M., SAID CORNER BEING A 2" DIAMETER ALUMINUM CAP STAMPED COLO. L.S. 12027;

THENCE SOUTH 89° 56' 29" WEST, A DISTANCE OF 438.76 FEET TO A POINT ON THE EASTERLY BOUNDARY LINE OF THAT CERTAIN TRACT OF LAND DESCRIBED IN INSTRUMENT RECORDED MARCH 16, 1988 S RECEPTION NO. 560472;

THENCE NORTH 09° 10' 00" EAST, A DISTANCE OF 60.45 FEET ALONG SAID EASTERLY BOUNDARY LINE;

THENCE NORTH 01° 33' 00" WEST, A DISTANCE OF 73.44 FEET, ALONG SAID EASTERLY BOUNDARY LINE;

THENCE NORTH 25° 03' 00" EAST, A DISTANCE OF 295.57 FEET, ALONG SAID EASTERLY BOUNDARY LINE;

THENCE NORTH 04° 37' 43" EAST, A DISTANCE OF 102.22 FEET, ALONG SAID EASTERLY BOUNDARY LINE;

THENCE NORTH 21° 59' 49" WEST, A DISTANCE OF 112.82 FEET, ALONG SAID EASTERLY BOUNDARY LINE;

THENCE NORTH 32° 57' 48" WEST, A DISTANCE OF 165.75 FEET, ALONG SAID EASTERLY BOUNDARY LINE;

THENCE NORTH 30° 08' 00" WEST, A DISTANCE OF 84.01 FEET;

THENCE NORTH 30° 00' 00" WEST, A DISTANCE OF 117.65 FEET;

THENCE NORTH 18° 43' 00" WEST, A DISTANCE OF 256.97 FEET;

THENCE NORTH 32° 49' 00" WEST, A DISTANCE OF 24.32 FEET;

THENCE NORTH 41° 09' 00" WEST, A DISTANCE OF 52.43 FEET;

THENCE NORTH 27° 32' 00" WEST, A DISTANCE OF 70.90 FEET;

THENCE NORTH 10° 40' 00" EAST, A DISTANCE OF 49.76 FEET TO A POINT ON THE NORTH LINE OF LOT 1 (NE1/4NE1/4) OF SAID SECTION 2;

THENCE NORTH 89° 46' 48" EAST, A DISTANCE OF 659.51 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING.

TOGETHER WITH A NON-EXCLUSIVE ACCESS EASEMENT, 60 FEET IN WIDTH, THE CENTERLINE OF WHICH IS DESCRIBED AS BEGINNING AT A POINT ON THE WESTERLY BOUNDARY LINE OF THE TRACT OF LAND ABOVE DESCRIBED, FROM



WHICH THE NORTHEAST CORNER OF SECTION 2, TOWNSHIP 34 NORTH, RANGE 7 WEST, N.M.P.M., BEARS NORTH 74° 35' 10" EAST, 617.04 FEET, THENCE RUNNING FROM SAID POINT OF BEGINNING AND FOLLOWING THE CENTERLINE OF THENCE SOUTH 52° 08' 31" WEST, 105.62 FEET; THENCE SOUTH 57° 04' 39" WEST, 344.81 FEET; THENCE SOUTH 40° 18' 00" WEST, 20.59 FEET, MORE OF LESS, TO THE EASTERLY BOUNDARY LINE OF LA PLATA COUNTY ROAD 501, BEING THE POINT OF TERMINATION OF THE EASEMENT HEREIN DESCRIBED.

**TRACT IV**

LOT 2 SECTION 1, TOWNSHIP 34 NORTH, RANGE 7 WEST, N.M.P.M

**TRACT V**

SECTION 35, TOWNSHIP 35 NORTH, RANGE 7 WEST, N.M.P.M

**TRACT VI**

THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (SW1/4NW1/4) OF SECTION ONE (1); THE SOUTH HALF OF THE NORTHEAST QUARTER (S1/2NE1/4), AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER (SE1/4NW1/4) OF SECTION TWO (2); ALL IN TOWNSHIP THIRTY-FOUR (34) NORTH, RANGE SEVEN (7) WEST, N.M.P.M.

LESS AND EXCEPT: A TRACT OF LAND IN THE NORHTWEST QUARTER OF SECTION 2, TOWNSHIP 34 NORTH, RANGE 7 WEST, N.M.P.M., DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE NOTHRWEST QUARTER OF SAID SECTION 2; THENCE SOUTH A DISTANCE OF 1175 FEET TO THE CENTERLINE OF THE PINE RIVER; THENCE NORTH 20 DEGREES 19 MINUTES ALONG SAID RIVER CENTERLINE A DISTANCE OF 212 FEET; THENCE NORTH 36 DEGREES 48 MINUTES EAST ALONG SAID RIVER CENTERLINE FOR A DISTANCE OF 338 FEET; THENCE NORTH 29 DEGREES 19 MINUTES EAST ALONG SAID RIVER CENTERLINE FOR A DISTANCE OF 293 FEET; THENCE ALONG SAID RIVER CENTERLINE NORTH 40 DEGREES 36 MINUTES EAST FOR A DISTANCE OF 562 FEET TO THE NORTH LINE OF THE SE1/4 NW1/4 OF SAID SECTION 2; THENCE NORTH 88 DEGREES 18 MINUTES WEST ALONG SAID LINE FOR A DISTANCE OF 785.65 FEET TO THE POINT OF BEGINNING.



LESS AND EXCEPT the property described on Exhibit "A."

In addition to the above, as the owner or with the written consent of the owner, Declarant may also submit to the terms of the Declaration any real property situated within two (2) miles of the perimeter boundaries of the property described on Exhibit "A" or this Exhibit "B."

**Note to clerk and title examiners:**

**This Declaration is not intended to create an encumbrance on title to the property described on this Exhibit "B." Such title may be encumbered only with the consent of the owner by filing a Supplemental Declaration in accordance with Article IX.**



**EXHIBIT "C"**

**Initial Restrictions and Rules**

The following restrictions shall apply to all of Dove Ranch until such time as they are amended, modified, superseded, repealed or limited pursuant to Article III of the Declaration.

1. General. The properties submitted to this Declaration shall be used only for residential, recreational, and related purposes consistent with this Declaration and any Supplemental Declaration. Such purposes may include, without limitation, an information center and/or a sales office for any real estate broker retained by Declarant to assist in the sale of property described in Exhibits "A" or "B," offices for any property manager retained by the Association, business offices for Declarant and the Association, and public facilities.

2. Restricted Activities. The following activities are prohibited within Dove Ranch unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

(a) Parking of any vehicles on public or private streets or thoroughfares within Dove Ranch, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles or inoperable vehicles in places other than enclosed garages except temporarily during loading and unloading; provided, construction, service and delivery vehicles shall be exempt from this provision for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Area. For purposes of this provision, "commercial vehicles" shall be defined as trucks or vans with commercial writing on their exteriors or vehicles primarily used or designed for a commercial purpose, and vehicles with advertising signage attached or displayed on such vehicle's exterior, but shall not include passenger cars with identifying decals or painted lettering not exceeding a total area of one square foot in size or official vehicles owned by governmental or quasi-governmental bodies; and

(b) Raising, breeding or keeping animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit; however, those pets which are permitted to roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed and inoculated as required by law; and

(c) Any activity which emits foul or obnoxious odors outside the Unit or creates an unreasonable level of noise or other conditions which tend, in the Board's judgment, to unreasonably disturb the peace or threaten the safety of the occupants of other Units (this



paragraph shall not preclude normal and customary use of power tools, lawn mowers, and other yard maintenance equipment); and

(d) Any activity which violates local, state or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation; and

(e) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy or untidy condition to exist outside of enclosed structures on the Unit; and

(f) Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units; and

(g) Exterior fires or outside burning of trash, leaves, debris or other materials, except by the Declarant during the normal course of development, construction, and clean up; provided, this provision shall not preclude normal use of barbecue grills or outdoor fireplaces approved pursuant to Article IV; and

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes; and

(i) Use and discharge of firecrackers and other fireworks; and

(j) Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within Dove Ranch, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff; and

(k) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers which must either be stored in an enclosed garage or in another enclosed area, not visible from adjacent property, except on the day garbage is collected; and

(l) Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant, its designees, and the Association shall have such right, and Builders may alter drainage flow so long as the alteration does not adversely affect other Units; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent; and

(m) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and recorded, except that



during the Development and Sale Period the Declarant may subdivide or replat Units which it owns; and

(n) Conversion of any garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Article IV, or use of any garage for storage or other purposes which preclude its use for parking of that number of vehicles for which it was originally designed; and

(o) Use of any Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program with respect to Units which it owns; and

(p) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge; and

(q) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Article IV; and

(r) Any yard sale, garage sale, moving sale, rummage sale, or similar activity, except on such dates as the Board may designate for such activities to be conducted on a community-wide basis; and

(s) Operation of motorized vehicles or bicycles on pathways or trails maintained by the Association and designated as "pedestrian walkways;" and

(t) Use or operation of snowmobiles, motorcycles, trailbikes, minibikes, dirt bikes, all-terrain vehicles, and similar motorized vehicles within Dove Ranch, except that such vehicles may be transported through Dove Ranch on trailers, and motorcycles licensed for use on public streets may be operated on public streets within Dove Ranch as necessary for direct access between a Unit and streets outside of Dove Ranch; and

(u) Picknicking or camping on Common Areas, except such areas, if any, as the Board may specifically designate for such purposes and then subject to such conditions and additional rules as the Board may establish for such use; and

(v) Outdoor hanging, drying, or airing of laundry, bedding, rugs, or similar household items; and



(w) Any business, trade, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for Dove Ranch; (iii) the business activity does not involve door-to-door solicitation of residents of Dove Ranch; (iv) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in Dove Ranch which is noticeably greater than that which is typical of Units in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of Dove Ranch and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of Dove Ranch as may be determined in the sole discretion of the Board.

The terms "**business**" and "**trade**," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

Leasing of a Unit shall not be considered a business or trade within the meaning of this subsection, provided that no Owner or group of related or affiliated Owners (as the Board may determine) shall collectively lease or hold for lease more than one Unit at any time. This subsection shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of Dove Ranch or its use of any Units which it owns within Dove Ranch including the operation of a timeshare or similar program; and

(x) Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article IV of the Declaration. This shall include, without limitation, signs, basketball hoops, swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers and similar structures; and hedges, walls, dog runs, animal pens, or fences of any kind; satellite dishes and antennas, except that:

(i) an antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter; or

(ii) an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or



- (iii) an antenna that is designed to receive television broadcast signals;

(collectively, "**Permitted Antennas**") shall be permitted on Units, subject to such reasonable requirements as to location and screening as may be set forth in the Design Guidelines, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of Dove Ranch, should any master system or systems be utilized by the Association and require such exterior apparatus.

3. Prohibited Conditions. The following shall be prohibited in Dove Ranch:

(a) Plants, animals, devices or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of Dove Ranch; and

(b) Structures, equipment or other items on the exterior portions of a Unit which have become rusty, dilapidated or otherwise fallen into disrepair; and

(c) Sprinkler or irrigation systems or wells of any type which draw upon water from ground or surface waters within Dove Ranch, except that Declarant, its designees, and the Association shall have the right to draw water from such sources, to the extent permitted by applicable ordinances and governmental regulations.

4. Leasing of Units. "**Leasing,**" for purposes of this Paragraph, is defined as regular, exclusive occupancy of a Unit by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. All leases shall be in writing. All leases shall have an initial term of at least six months. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within 10 days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the Restrictions and Rules.



EXHIBIT "D"

By-Laws of Dove Ranch Home Owners Association, Inc.

BY-LAWS

OF



HOME OWNERS ASSOCIATION, INC.

June 1, 2004



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