

DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF FAWN RIDGE SUBDIVISION  
CHAFFEE COUNTY, COLORADO

KNOW ALL MEN BY THESE PRESENTS: THAT,

WHEREAS, the undersigned, UTE DEVELOPMENT CORPORATION, a Colorado corporation, (hereinafter referred to as "Declarant") is the owner of real property described on the plat for Fawn Ridge Subdivision recorded in the real property records of Chaffee County, Colorado (such real property shall be referred to herein as the "Subdivision"), which Subdivision is commonly known as "Fawn Ridge Subdivision"; and

WHEREAS, Declarant desires to create within the Subdivision a residential community, and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in such community and for the maintenance of Roads, Well, and Fire Protection Cisterns (as each term is defined below) within the Subdivision; and, to this end, desires to subject the Subdivision to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Subdivision and each owner thereof, their heirs, successors, administrators, grantees, and assigns; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the Subdivision, to create an entity which shall have the obligation and powers of maintaining and administering Roads, Well, and Fire Protection Cisterns and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated under the laws of the State of Colorado, a non-profit corporation, the FAWN RIDGE PROPERTY OWNERS ASSOCIATION, INC., for the purpose of exercising the functions aforesaid.

NOW THEREFORE, Declarant declares that the real property described as Fawn Ridge Subdivision, Chaffee County, Colorado, is and shall be held, transferred, sold conveyed and occupied subject to the restrictions, limitations, uses, covenants, conditions, charges and liens hereinafter set forth, which are for the purpose of protecting the value and desirability, and which shall run with the real property and be binding on all parties having any right, title or interest in the said properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

Notes: COVENANTS RE-RECORDED TO CORRECT TYPO Pg 27 & ADD SIGNATURES Pgs 27 & 28  
9/23/02

## ARTICLE I

### DEFINITIONS

The following words, phrases or terms used in this Declaration shall have the following meanings:

- 1.1 "Architectural Control Committee" or "Committee" shall mean the committee elected by the Association Members to review and approve plans for the construction and modification of improvements on any Lot, to enforce the terms of this Declaration, the Bylaws and Articles and to perform such other duties as are set forth in Article VII hereof.
- 1.2 "Articles" shall mean the Articles of Incorporation of the Association, as the same may be amended from time to time according to their terms.
- 1.3 "Assessment" shall mean Annual Assessments, Special Assessments, Maintenance Assessments, Compliance Assessments and any other type of assessment or cost, interest, attorneys' fees, or other charges imposed on a Lot and the owner thereof in accordance with this Declaration and secured by an Assessment Lien as set forth in this Declaration.
- 1.4 "Assessment Lien" shall mean the lien created and imposed pursuant to Section 4.6 hereof.
- 1.5 "Assessment Period" shall mean the period set forth in Section 4.3 hereof.
- 1.6 "Association" shall mean and refer to Fawn Ridge Property Owners Association, Inc., a Colorado non-profit corporation, its successors and assigns, whose purpose shall be as set forth in the Articles and in this Declaration.
- 1.7 "Association Rules" shall mean the rules for Fawn Ridge Subdivision adopted by the Board pursuant to Section 3.6, Section 4.7, Section 5.3, Section 6.3, Section 7.09, and Section 8.15 hereof, as the same may from time to time be amended or supplemented.
- 1.8 "Board of Directors" or "Board" shall mean the governing body of the Association.
- 1.9 "Building and Design Regulations" shall mean those regulations set forth in this Declaration or promulgated by the Architectural Control Committee from time to time, pursuant to Article VII hereof, concerning construction or landscaping upon any Lot.
- 1.10 "Building Envelope" shall mean the area shown on the Plat within each Lot, only in which may a Dwelling Unit be constructed on such Lot.

CHAFFEE COUNTY, SALIDA CO REC \$141.00  
JOYCE M. RENO, COUNTY CLERK AND RECORDER

09/24/2002 RECPT-329187  
09:45:00AM 3 OF 28

CHAFFEE COUNTY, SALIDA CO REC \$141.00  
JOYCE M. RENO, COUNTY CLERK AND RECORDER

09/12/2002 RECPT-328853  
08:00:00AM 3 OF 28

- 1.11 "Bylaws" shall mean the bylaws of the Association as the same may be amended from time to time in accordance with their terms.
- 1.12 "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for Fawn Ridge Subdivision.
- 1.13 "Dwelling Unit" shall mean any building or portion of a building situated upon a Lot designed and intended for use and occupancy as a residence.
- 1.14 "Fire Protection Cisterns" shall mean cisterns installed and/or located on Lots 13 and 15, which cisterns are for benefit of all Lots and are used for fire protection purposes only. Declarant shall be responsible for the initial installation of the Fire Protection Cisterns but shall convey title to such cisterns to the Association. For purposes of this Declaration, Fire Protection Cisterns shall include wells, pumps, pipelines, and other equipment related to fire protection within the Subdivision.
- 1.15 "Lot" shall mean any area of real property within Fawn Ridge Subdivision designated as such on the Plat recorded in Chaffee County, of Fawn Ridge Subdivision.
- 1.16 "Member" shall mean any person holding a Membership in the Association pursuant to this Declaration.
- 1.17 "Membership" shall mean a membership in the Association and the rights granted to the Owners to participate in the Association pursuant to Article IV hereof.
- 1.18 "Owner" shall mean the person or, if more than one, all persons collectively, who hold fee simple title of record to any Lot including contract sellers but excluding record title holders who hold such title merely as security. In the case of Lots, legal title to which is vested of record in a Trustee to create a security interest, legal title shall be deemed to be the Trustor.
- 1.19 "Plat" shall mean the subdivision plat for Fawn Ridge Subdivision as recorded in the Chaffee County records, as same may be amended from time to time.
- 1.20 "Property" shall include all of the Property identified in Fawn Ridge Subdivision Plat as recorded in Chaffee County, Colorado.
- 1.21 "Roads" shall mean the roads within the Subdivision as shown on the Plat. Concurrently with the recordation of this Declaration, Declarant has conveyed ownership of the land on which the Roads are constructed to the Association.
- 1.22 "Resident" shall mean the Owner or each Tenant actually residing on a Lot. The term "Resident" shall also include the guests or invites or such Owner or Tenant, if any, to the extent the Board, in its absolute discretion by resolution so directs.

CHAFFEE COUNTY, SALIDA CO REC \$141.00  
JOYCE M. RENO, COUNTY CLERK AND RECORDER

09/24/2002 RECPT-329187  
09:45:00AM 4 OF 28

CHAFFEE COUNTY, SALIDA CO REC \$141.00  
JOYCE M. RENO, COUNTY CLERK AND RECORDER

09/12/2002 RECPT-328853  
08:00:00AM 4 OF 28

- 1.23 "Special Assessments" shall mean any charge levied and assessed pursuant to Section 4.2 hereof.
- 1.24 "Fawn Ridge Subdivision" shall mean the Property subject to this Declaration.
- 1.25 "Tenant" shall mean any person who occupies a Dwelling Unit under any type of rental or lease arrangement.

## ARTICLE II TERM AND AMEDEMEMENTS

- 2.1 Duration of Covenants. The covenants, conditions and restrictions set forth in this Declaration are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of the Property. The terms, limitations, restrictions, easements, covenants, conditions, obligations, liens and charges hereafter described shall be a burden and benefit to the Owners, their grantees, successors and assigns and shall constitute covenants running with the Property, binding upon and inuring to the benefit of all those who hereafter obtain any interest in the Property, unless amended, modified or terminated by property vote of all Members pursuant to Section 2.2 below. These covenants shall remain in effect until December 1, 2025, after which time they shall be automatically extended for successive periods of ten (10) years unless they are amended or terminated as provided herein.

The grantee of any Lot subject to this Declaration, by acceptance of a deed conveying title thereto, shall accept such deed upon and subject to each and all of these covenants and the agreements contained herein.

- 2.2 Amendment/Termination. The terms of these covenants, conditions, and restrictions may be amended, modified or terminated only by an instrument signed by not less than seventy percent (70%) of the record owners of Lots in the Property. Any and all such amendments shall be duly recorded in the public records of Chaffee County, Colorado. Notwithstanding the foregoing, the terms and conditions of Articles VIII and IX may be amended by (i) a majority vote of the members of the Architectural Control Committee, (ii) a majority of the members of the Board of Directors, and (iii) by not less than fifty one percent (51%) of the record Owners of Lots in the Property.

### ARTICLE III

#### THE ASSOCIATION, MEMBERS AND VOTING

- 3.1 The Association, Rights and Powers. The Association shall be a non-profit Colorado corporation charged with managing, maintaining, repairing and administering the Roads, Well and Fire Protection Cisterns and, directly or through the Architectural Control Committee, with enforcing the terms and conditions of this Declaration. The Association shall be charged with the duties and vested with the rights and powers prescribed by law and set forth in the Articles, Bylaws and this Declaration. A copy of this Declaration, the Articles and Bylaws shall be available for inspection by members and Tenants at the office of the Association or its management company during reasonable business hours and shall be provided to any Member upon request. In the event any of the terms of the Articles or Bylaws shall be deemed inconsistent with the provisions of this Declaration the provisions of this Declaration shall control.
- 3.2 Board of Directors and Officers. The affairs of the Association shall be conducted by the Board, each member of which shall be an owner of a Lot ( or a resident spouse of an Owner), and such officers as the Board may elect or appoint in accordance with the Articles and Bylaws. The Board shall be composed of as many members and Bylaws shall specify, so long as such number is not more than five (5) nor less than three (3), each with a term of two (2) years. The Board may appoint various committee (except for the Architectural Control Committee, whose members shall be elected by the Association Members) and appoint a manager who shall, subject to the direction of the Board, be responsible for the day to day operation of the Association. The Board shall determine the compensation to be paid to the manager or any other employee of the Association.
- 3.3 Membership. Every Owner of a Lot shall be a Member of the Association. Each such Owner shall have one Membership for each Lot. There shall be only one Membership for each Lot. Each such Membership shall be appurtenant to any may not be separated from ownership of a Lot to which the Membership is attributable.
- 3.4 Right to Vote. Members may vote on any and all issues properly brought before them at a duly called and noticed meeting, or in a properly issued notice of a vote by mail. Members who have an outstanding Assessment Lien against their Lot shall not be entitled to vote. No change in the ownership of the Membership shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. A vote for each such Membership must be cast as a unit. Fractional votes shall not be allowed. In the event that a Membership is owned by more than one person or entity, such Owners shall designate between themselves one person to vote that particular Membership. If any Member casts a vote representing a certain Membership, it

will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Membership unless objection is made at the time the vote is cast.

In the event an Owner is severely ill or incompetent and has properly granted to another his or her Power of Attorney, the holder of such Power may vote on behalf of said Owner on all matters for so long as the Power is valid.

- 3.5 Transfer of Membership. Membership in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot. A transfer of ownership of a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure or a mortgage of record or such legal process as is now in effect or as may hereafter be established pursuant to the laws of the State of Colorado. Any attempt to make a prohibited transfer of a Membership without simultaneously transferring an ownership interest in the Lot to which such Membership is attributable shall be void. Execution of a Power of Attorney granting to another the right to vote on Association matters in the event of the disability of an Owner shall not be considered an attempted transfer of a Membership. Any transfer of ownership of a Lot shall operate to transfer automatically the Membership appurtenant to said Lot to the now Owner thereof, whether or not specific reference to such Membership is made in the document of conveyance.
- 3.6 Association Rules. By a majority vote of the Board, the Association may from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations to be known as the Association Rules. The Association Rules may restrict and govern the use of any area of the Subdivision by any Member or Resident; provided, however, that the Association Rules shall not unfairly discriminate among Member, and shall not be inconsistent with this Declaration, the Articles or Bylaws. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth herein and were a part of this Declaration.
- 3.7 Personal Liability. A director of the Association, and each member of a committee, office, agent and employee of the Association, shall not be personally liable to the Association or its Members for monetary damages except as follows: This provision shall not eliminate or limit the liability of a director or any member of a committee, officer, agent or employee of the Association, to the Association or to its Members for monetary damages for (a) any breach of duty of loyalty to the Association or its Members; (b) acts or omissions made in bad faith or which involve intentional misconduct or knowing violation of the law; (c) acts specified in Section 7-24-111 of the Colorado Non-Profit Corporation Act; or (d) any transaction from which such party derives any improper personal benefit.

The Association, by a vote of a majority of the Members, may adopt resolutions providing for the indemnification of officers, directors, members of the

committees, agents and employees for all or part of the reasonable cost and expenses incurred by them in connection with any proceeding to which they may be a party, or in which they may have become involved by reason of their being or having been a director, member of a committee, officer, agent or employee at the time such expenses are incurred except in such case wherein the director, member of a committee, officer, agent or employee is adjudged guilty of willful nonfeasance, misfeasance or malfeasance in the performance of his or her duties.

- 3.8 Borrowing Power. The Association may borrow money in such amounts, at such rates, upon such terms and security, and for such period of time as is necessary or appropriate provided that any such borrowing resulting in an outstanding balance in excess of \$10,000 shall be subject to approval by vote of two-thirds of the Members present in person or by proxy at a special meeting of the Members duly called for that purpose.
- 3.9 Purpose for which Association's Funds May be Used. The Association shall apply all funds and property collected and received by it (including Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Subdivision and the Members and Residents by devoting said funds any property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, security, programs, studies, and systems, within or without the Property as may be necessary, desirable or beneficial to the general common interests of the Subdivision, the Members and the Residents. The Association also may expend its funds for any purposes which any municipality may expend its funds under the laws of the State of Colorado.
- 3.10 Association's Rights in Spending Funds from Year to Year. The Association shall not be obligated to spend in any year all sums received by it in such year (whether by way or Annual or Special Assessments, or otherwise) and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purpose.
- 3.11 Insurance. The Association shall maintain insurance against liability incurred as a result of death or injury to persons, or damage to property in such amounts and with such coverage and deductibles as the Board in its discretion shall determine from time to time. Insurance obtained by the Association shall, to the extent reasonably possible without undue cost, cover each Member without each Member necessarily being specifically named. Insurance obtained by the Association shall, to the extent reasonably possible without undue cost, contain a

waiver of rights of subrogation as against the Association, each Member and any person claiming by, through or under such member and as against any officer, director, agent or employee of any of the foregoing. Insurance policies and insurance coverage shall be reviewed at least annually by the Board to ascertain whether coverage under the policies is sufficient in light of the possible or potential liabilities of the Association.

3.12 Association's Maintenance of the Roads, Well and Fire Protection Cisterns. The Association, or its duly delegated representative, shall maintain and otherwise manage the Road, Well and the Fire Protection Cisterns, as set forth below, at the sole cost and expense of the Association (including payment of real estate taxes, if any, imposed on the Roads). To do so, the Association may subject to any applicable provisions on Special Assessments for capital improvements in the discretion of the Board:

- (a) Construct, repair, replace or refinish any Road, the Well, or any Fire Protection Cisterns;
- (b) Do all such other and further acts which the Board deems necessary to preserve and protect the Roads, Well, and Fire Protection Cisterns and the beauty thereof, in accordance with the general purposes specified in the Declaration.

The Board shall be the sole judge as to the appropriate maintenance of all Roads, Well, and Fire Protection Cisterns. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Board or by its duly delegated representative.

3.13 Contracts with Others for Performance of Association's Duties. Subject to the restrictions and limitation contained herein, the Association may enter into contracts and transactions with others and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more Board member or officer of the Association or members of any committee is employed by or is otherwise connected with the contracting party, provided that the fact of such interest shall be disclosed or known to the other Board members acting upon such contract or transaction, and provide further that the transaction or contract is fair and reasonable. Any such Board member, officer or committee member may be counted in determining the existence of a quorum at any meeting of the Board or committee of which he is a member which shall authorize any contract or transaction described above, but such interested Board member, officer or committee member shall not be permitted to vote on such issue.



ARTICLE IV

ASSESSMENTS

4.1 Annual Assessments. In order to provide for the uses and purposes specified herein, including the maintenance of the Roads, Well and Fire Protection Cisterns, and the establishment of a covenant enforcement fund and replacements and maintenance reserves, the Board each year commencing with the recordation of the Plat, shall assess against each Lot an Annual Assessment. The amount of the Annual Assessment shall be based upon an annual budget which shall be proposed by the Board and which must be approved by the Members at the Association's annual meeting. The budget shall be determined with the objective of fulfilling the Association's obligations under this Declaration. The Annual Assessments shall be uniform as to each Lot.

4.2 Special Assessments for Capital Improvements and Extraordinary Expenses. In addition to the Annual Assessments authorized above, the Association may levy, in any Assessment Period, a Special Assessment applicable to that period only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement on the Open Space, including fixtures and personal property related thereto, or for the purpose of defraying other or extraordinary expenses provided that any such Assessment shall be approved by two-thirds of the votes of the Members present in person or by proxy at a special meeting of the Members duly called for this purpose.

At such a special meeting a quorum shall be equal to twenty-five percent (25%) of the Membership. Should a quorum not be obtained at such meeting, a second meeting shall be called within sixty (60) days of the date of the first meeting. A quorum for such second meeting shall be equal to ten (10%) of the Membership. Should a quorum still not be obtained, subsequent meetings may be called to consider the Special Assessment, and at each such meeting the required quorum shall be one-half of the quorum specified at the previous meeting.

Once a Special Assessment has been approved, the Board shall establish a due date therefore and shall determine whether installment payments will be permitted. Special Assessments shall be uniform as to each Lot.

The provisions of this subsection are not intended to preclude or limit the assessment, collection or use of Annual Assessments as set forth in Section 4.1 above.

4.3 Establishment of Annual Assessment. The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the Association's fiscal year, January 1 to December 31. The Board, in its sole discretion, from time to time may change the Assessment Period by recording in the Chaffee County records an instrument specifying the new Assessment Period. The

Association shall promptly give notice of such new Assessment Period to each member.

- 4.4 Assessment of Certain Costs of Maintenance and Repair of the Roads, Well, or Fire Protection Cisterns. In the event that the need for maintenance or repair of the Roads, Well, or any Fire Protection Cisterns is caused by the willful or negligent act of any Member, or his family, Tenant, guests or invitees, the cost of such maintenance or repairs shall be deemed a Maintenance Assessment and shall be separately assessed against such Member and the Member's Lot. The costs of maintenance and repair shall be deemed to include any and all attorney's fees and/or similar costs expended by the Association to enforce payment of the Maintenance Assessment. Payment of such maintenance and repair costs, including attorney's fees, shall be due immediately upon notice of such assessment amount to said Member and shall be secured by the Assessment Lien.
- 4.5 Assessment of Certain Costs of Improper Maintenance, Use of Lot or Other Violation. In the event (i) any portion of any Lot is so maintained as to present a public or private nuisance, or so as to detract from the appearance or quality of the surrounding Lots as shall be determined in the sole discretion of the Architectural Control Committee, or (ii) any Owner modifies or constructs improvements upon his Lot without the approval of the Architectural Control Committee, or in a manner other than as approved by the Architectural Control Committee or (iii) any portion of any Lot is being used in any manner which violates this Declaration, or (iv) the Owner of any Lot shall fail to perform any of his obligations under this Declaration or the Association Rules, then the Architectural Control Committee may by resolution make a finding to such effect specifying the particular condition or conditions which exist. The Architectural Control Committee shall provide written notice, by certified mail, return receipt or by hand delivery with receipt, to the offending Owner that unless corrective action is taken within twenty-one (21) days (or such shorter period as the circumstances may reasonably require) the Committee may cause any required corrective action to be taken at the owner's cost, or begin to assess any fines authorized elsewhere herein, unless such decision is appealed by the Owner as set forth below. (In the case of construction or modification to a Lot not approved by the Architectural Control Committee, corrective action shall be deemed to properly include the removal of the unapproved structure or landscaping.) If, at the expiration of said period, the requisite corrective action has not been taken, or an appeal has not been properly entered, the Architectural Control Committee, shall be authorized and empowered to cause such corrective action to be taken and the costs thereof shall be deemed a Compliance Assessment and shall be separately assessed against such noncomplying Member and the Member's Lot. If the assessment of a fine is authorized elsewhere herein, the Association need not take corrective action. In that event, the fines themselves shall be deemed Compliance Assessments. For purpose of this Section 4.5, corrective action shall include, but not be limited to, repair, cleanup, maintenance, painting, paving, improvement or landscaping removal. The costs of any required corrective action

CHAFFEE COUNTY, SALIDA CO REC \$141.00  
JOYCE M. RENO, COUNTY CLERK AND RECORDER

09/24/2002 RECPT-329187  
09:45:00AM 11 OF 28

CHAFFEE COUNTY, SALIDA CO REC \$141.00  
JOYCE M. RENO, COUNTY CLERK AND RECORDER

09/12/2002 RECPT-328853  
08:00:00AM 11 OF 28

shall be deemed to include any and all attorneys' fees and/or similar costs expended by the Association to enforce payment of the Compliance Assessment Payment of such corrective action costs, including attorneys' fees, shall be due immediately upon notice of such assessment amount to said Member and shall be secured by the Assessment Lien.

An Owner may appeal the decision of the Architectural Control Committee to require corrective action by submitting written notice to the Architectural Control Committee and the Board of Directors. Such notice shall specify clearly what findings of the Architectural Control Committee the Owner challenges. The notice must be sent by certified mail, return receipt, or be hand delivered with receipt and shall be received by the Architectural Control Committee and the Board of Directors prior to the end of the twenty-one (21) day period (or such shorter period) as specified in the Committee's notice of violation.

The Architectural Control Committee and the Board of Directors shall, within twenty-one (21) days after receipt of the Owner's notice of appeal, convene a joint meeting of the Committee and the Board to hear the Owner's appeal. The Owner may present evidence and witnesses at such joint meeting. The Owner's appeal shall be determined by majority vote of the Board and majority vote of the Committee. In the event one segment of the joint meeting votes in favor of the Owner and the other segment votes against, then the Owner shall prevail in his appeal. Such appeal shall be the Owner's sole and exclusive remedy.

During the pendency of any appeal (i) the Owner shall stop any work or other activity which the Committee claims is a violation of these covenants; and (ii) the Architectural Control Committee shall take no corrective action on the Owner's Lot.

- 4.6 Creation of Lien and Personal Obligation for Assessments. Each Owner of a Lot within the Subdivision, by acceptance of a deed therefore is deemed to covenant and agree to pay to the Association the following Assessments and charges: (1) Annual Assessments established by Section 4.1 above; (2) Special Assessments for capital improvements or other extraordinary expenses or costs established pursuant to Section 4.2 above; (3) Maintenance Assessments established pursuant to Section 4.4 above; (4) Compliance Assessments established pursuant to Section 4.5 above; and (5) such other charges including, but not limited to, interest costs, and attorney's fees as may be permitted or required by this Declaration. All such Assessments shall be established and collected as hereinafter provided.

All sums assessed pursuant to any provision of this Declaration, but unpaid on the due date, shall constitute a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances, excepting tax and special assessment liens in favor of governmental assessing authorities and all sums unpaid on a first mortgage encumbering a Lot. To evidence such lien, the

CHAFFEE COUNTY, SALIDA CO REC \$141.00  
JOYCE M. RENO, COUNTY CLERK AND RECORDER

09/24/2002 RECPT-329187  
09:45:00AM 12 OF 28

CHAFFEE COUNTY, SALIDA CO REC \$141.00  
JOYCE M. RENO, COUNTY CLERK AND RECORDER

09/12/2002 RECPT-328853  
08:00:00AM 12 OF 28

Association shall prepare a written notice setting forth the amount of such unpaid indebtedness including accrued interest and late charges, the name of the nonpaying owner and a description of said Owner's Lot. Such a notice shall be signed by one of the members of the Board of Directors or managing agent and shall be recorded in the office of the Clerk and Recorder of Chaffee County, Colorado. Such lien shall also secure any costs and expenses including attorney's fees incurred by the Association in the preparation of the lien notice, the foreclosure of the lien or collection of the sums due as shown therein.

Sale or transfer of any Lot shall not affect the Assessment Lien; provided, however, that if the sale or transfer is pursuant to foreclosure of a mortgage or deed of trust to which the Assessment Lien is subordinate, or pursuant to any sale or proceeding in lieu thereof, the purchaser at the mortgage foreclosure or public trustee sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot of the Assessment Lien for all Assessments that have accrued up to the date of issuance of the Sheriff's or trustee's deed or deed in lieu of foreclosure, the Assessment Lien with respect to Assessments accruing from and after such date immediately shall become and remain superior to any and all other charges, liens or encumbrances (except liens, taxes or other public charges which by applicable law are expressly made superior), and such mortgage or deed of trust foreclosure sale purchaser or grantee shall take subject to all Assessments, and the Assessment Lien thereof accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure.

Each Owner hereby agrees that the Association's lien on a Lot as hereinbefore described shall be superior to the homestead exemption provided by Section 38-41-201, C.R.S. et/ seq. and each Owner hereby agrees that the acceptance of a deed or other instrument of conveyance to any Lot shall signify such grantee's waiver of such homestead right.

Each Annual, Special, Maintenance and Compliance Assessment, together with interest, costs, and reasonable attorney's fees and such other charges as are permitted in this Declaration shall be the personal obligation of the person who was the Owner of the Lot at the time the Agreement fell due. The personal obligation of an Owner to pay Assessments which accrue during the period of his ownership of a Lot shall not pass to the successors in title of such Owner unless expressly assumed by them.

The lien shall be discharged by recordation of a release only after payment in full of the delinquent amount, plus costs, attorney's fees and interest is made to the Association. The Association may charge a fee to the Owner to record such discharge or release of lien. The cost for preparation, filing of liens and releases shall be treated as a collection cost of the Association and shall be secured by the Assessment Lien.

- 4.7 Billing and Collection Procedures. Annual Assessments shall be due in full thirty (30) days after each annual meeting of the Members, Special Assessments shall be due as specified by the Board unless otherwise determined by resolution of the Members of the Association approving the Special Assessment, and Maintenance and Compliance Assessments shall be due immediately upon notice of each Assessment. Any Owner who disputes the amount of any Assessment or the power of the Association to levy it may challenge such Assessment in any court of appropriate jurisdiction but only after having made full and timely payment thereof. Failure to make such payment within sixty (60) days of the due date thereof shall be deemed an irrevocable waiver of any right to challenge the amount of such an Assessment or the power of the Association to levy it. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making, billing, and collecting the Assessments provided for herein, provided that said procedures are not inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to a Member shall not relieve any Member of his liability for any Assessment under this Declaration. The Assessment Lien for any Assessment or other charge shall not be foreclosed until the expiration of sixty (60) days from and after the Assessment or other charge giving rise to the Assessment Lien becomes due and payable. The Association shall be under no duty to refund any payments received by it even though the ownership of a Membership changes during an Assessment Period; successor Owners of Lots shall be given credit for prepayments, on a prorated basis, made by prior Owners.
- 4.8 Collection Costs and Interest on Delinquent Assessments. Any Assessment or installment thereof not paid when due shall be deemed delinquent and shall bear interest from the date due until paid at a simple interest rate equal to 18% per annum, and the Member shall also be liable for all costs, including attorney's fees which may be incurred by the Association in collecting same.
- 4.9 Assessment Certificate. Upon receipt of a written request by a Member, the Association within a reasonable period of time thereafter shall issue to such Member a written certificate stating (a) that all Assessments have been paid with respect to any specified Lot as of the date of such certificate or (b) if all Assessments have not been paid, the amount and nature of any Assessment(s) due and payable as of such date. The Association or its agent may charge a reasonable fee for the issuance of such certificate and may require that such charges be paid at the time the request for any such certificate is made. Any such certificate when issued as provided herein shall be conclusive and binding with respect to any matters stated therein and may be relied upon by any bona fide purchaser of the described Lot or lender on the Lot in question.
- 4.10 Property Exempt from Assessment and Assessment Liens. Any lots owned by the Association shall be exempt from Assessments and shall not be subject to an Assessment Lien.

4.11 Association's Rights of Enforcement. The Association, as the agent and representative of the Owners, shall have the right (either directly or through the Architectural Control Committee) to enforce the covenants set forth in this Declaration and/or any and all covenants, restrictions, reservations, charges, servitudes, Assessments, conditions, liens or easements provided for in any contract, deed, declaration or other instrument which (a) shall have been executed pursuant to the provisions of this Declaration or (b) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association. Such enforcement rights shall include the assessment rights set forth in Sections 4.4 and 4.5 hereof and such legal rights available under Colorado law in law or in equity. The Association may file suit to enjoin any action of a noncomplying Owner or Resident, to seek damages from such Owner or Resident and to remedy any violation. Prior to the commencement of any such lawsuit, however, the Board of Directors must approve of the initiation and prosecution of such action by the Architectural Control Committee. Every Act, omission or condition which violates the terms of this Declaration (or any rule or regulations promulgated hereunder) shall constitute a continuing nuisance.

If the Association or the Architectural Control Committee shall fail or refuse to enforce this Declaration or any provision hereof for an unreasonable period of time after written request to do so is made by not less than five (5) Members, then any single Member may enforce said covenants on behalf of the Association but not at the expense of the Association, by any appropriate action, whether in law or in equity. A Member, however, shall not have the assessment powers granted to the Association in this Article IV. If any such re-enforcing this Declaration or any provision hereof on behalf of the Association shall be successful in such action, then in addition to any other right or remedy which may be granted such Member by the court in such action such Member shall be entitled to recover his reasonable attorney's fees and court costs in connection with such action from the party (other than the Association) who is unsuccessful in such action.

If any Member fails to pay an Assessment or installment thereof when due, the Association may enforce the payment thereof by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies set forth hereafter, the Association does not prejudice or waive its right to exercise any other remedy):

- (a) bring an action at law and recover judgment against the Member personally obligated to pay the Assessment;
- (b) foreclose the Assessment Lien against the Lot in accordance with then prevailing Colorado law relating to the foreclosure of mortgages (including the right to recover any deficiency) and the Lot may be redeemed after foreclosure sale as provided by law.

- 4.12 Attorney's Fees and Costs to be Borne by Member. In any action taken pursuant to the provisions of Section 4.11 above, the Member shall be personally liable for the Association's costs and expenses including, but not limited to, its attorneys' fees. Any Assessment Lien shall be deemed to secure the amount of the Assessments together with interest and the Association's costs and attorneys' fees, as set forth in this Article V. All of the Association's attorneys' fees and costs shall be recoverable whether such fees and costs are incurred in connection with an action filed to enforce the Covenants or otherwise. An assessment for such fees and costs may be levied without determination by any court that such fees and costs are reasonable or that the Association is the prevailing party in any legal action.
- 4.13 Subordination of Assessment Liens to Certain Mortgages or Deed of Trust. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien held by, or first deed of trust of which the beneficiary is, a bona fide lender who has loaned funds with the Lot as security, and shall also be subject and subordinate to liens for taxes and other public charges which by applicable law are expressly made superior thereof.

## ARTICLE V

### EASEMENTS

- 5.1 Utility Easements. Pursuant to the Plat of the Subdivision, the Subdivision is subject to easements upon, across and over such Lots as are shown in such Plat for the installation, replacement, repair and maintenance of all utility and service lines and systems, including, without limitation, the Well and the Fire Protection Cisterns. Pursuant to said easements, the appropriate utility or service company may install and maintain facilities and equipment on such Lots as are subject to said easements. No towers, electrical lines, water lines or other utilities or service lines may be installed or located on any portion of the Property except as shown on the platted easements.
- 5.2 Use of Utility Easements. No Owner shall engage in any activities which may damage or interfere with the utility lines or the Well or the Fire Protection Cisterns within the easements.
- 5.3 Use and Enjoyment of the Roads. A perpetual, non-exclusive easement for the use of the Roads within the Subdivision is hereby reserved, granted and conveyed to Owners of Lots in the Subdivision. Such easement shall be passed with title to each and every Lot. Each Member may, subject to the Association Rules and this Declaration and to the limitations contained therein and herein, use and enjoy the Roads for the purposes for which they are intended on a non-exclusive basis in common with the other Owners and their guests and invitees.

The Association may promulgate such rules and regulations as shall be reasonable to control the use of the Roads from time to time.

- 5.4 Use Restrictions. No use shall be made of the Roads which will in any manner violate the statutes, ordinances, rules or regulations of any governmental authority having jurisdiction over the Roads. No activity shall be conducted on any part of the Roads which will permanently deny free access to such areas to other Owners of Lots within the Subdivision.
- 5.5 Association's Easements. The Association shall have an easement over Lots 13 and 15 to provide reasonable access to install, repair, and maintain the Fire Protection Cisterns and/or the Well.
- 5.6 Ditch Easements. Easements for the location, use and maintenance of the White Ditch are reserved. The location of these easements are more fully disclosed on the recorded plat of FAWN RIDGE and affect only certain Lots. Other Lots located within FAWN RIDGE may be subject to easements for lateral ditches from other smaller irrigation ditches. The Owners or users of all such irrigation ditches have the right to maintain such irrigation ditches across the affected Lots. Certain lateral ditches may not be fully disclosed on the plat of FAWN RIDGE but their physical location on the affected Lot is clearly disclosed. Within these irrigation ditch easements, no structure or building, planting, or other material shall be placed or permitted to remain by the owner of the Lot which may damage, interfere or change the direction of flow of water in any irrigation ditch in the easements. The Owners of and users of such irrigation ditches have the right and responsibility to maintain such ditches and have reasonable access to accomplish such maintenance.

## ARTICLE VI

### ARCHITECTURAL CONTROL COMMITTEE

- 6.1 Purpose. It shall be the principal purpose of the Architectural Control Committee to foster the private nature of Lots, the opening of view corridors, the preservation of the existing natural landscape, and the health and safety of the Members. It shall also be the duty of the Committee to enforce the covenants, restrictions, reservations, charges, servitudes, conditions and easements of this Declaration, the Bylaws and Association Rules.
- 6.2 Construction of Improvements. No improvements, alterations, demolition, repairs, excavation, grading, filling, damming, redirection of natural surface drainage channels, landscaping, removal of living trees having a diameter of more than two (2) inches or other work which in any way alters the exterior appearance of any Lot, or the improvements located thereon, shall be made or done without the prior approval of the Architectural Control Committee. No building,



residence, or other structure, shall be commenced, erected, improved, altered, or made without the prior written approval of the Architectural Control Committee. All subsequent additions to or changes to any Lot or exterior improvements located thereon shall be subject to the prior written approval of the Architectural Control Committee. No substantial changes or deviations from the plans once approved by the Architectural Control Committee shall be made without the prior written approval of said Committee.

- 6.3 Establishment. There is hereby established an Architectural Control Committee, which Committee shall consist of three (3) voting Members. Such Committee shall review and consider for approval all plans for modifications to or creation of improvements upon the Lots, including landscaping changes, and shall determine whether the covenants, Association Rules or other Building and Design Regulations have been complied with as to any particular Lot. The Committee may adopt procedural rules and regulations for the performance of such duties as they deem appropriate. Members of the Architectural Control Committee need not be architects or other professionals, however, they must be Owners of a Lot in the Subdivision or the resident spouse of an Owner. The Members need not possess any special qualifications of any type except as may be established from time to time by the procedural rules set by the Architectural Control Committee. This Committee shall not be formed until such time that all 25 Lots within Fawn Ridge Subdivision have been sold by Declarant. Previous to this, Declarant and any agents appointed by Declarant shall make up the membership of the Architectural Control Committee.

The Architectural Control Committee shall hold meetings as necessary and a quorum for a meeting shall consist of a majority of the Members of the Committee, and the concurrence of a majority of said Members shall be necessary for any decision of the Architectural Control Committee. The primary obligation of the Architectural Control Committee shall be to enforce the Building and Design Regulations of Fawn Ridge Subdivision and to review and approve any plans for construction or improvements to any portion of the Subdivision for compliance with said regulations and with the covenants of this Declaration. It shall also, however, be the duty of the Committee to enforce the Covenants, restrictions, reservations, charges, servitudes, conditions and easements of this Declaration, the Bylaws and Association Rules. In its enforcement of the terms of this Declaration, the Committees shall have such enforcement powers and are stated in Article V hereof.

- 6.4 Election of Architectural Control Committee Members. The Architectural Control Committee members shall be elected by the Association Members at the annual meeting. Upon the removal or the death, incapacity or resignation of any one of the members of the Architectural Control Committee, the remaining Committee Members shall forthwith appoint a successor who shall serve for the balance of the departing member's term. Each member of the Architectural

Control Committee shall have a term of two (2) years, unless earlier removed. The members' terms shall be staggered.

- 6.5 Fees. The Architectural Control Committee may impose additional fees to cover its reasonable costs for review of plans submitted pursuant to Section 7.2 hereof and for processing appeals and reviewing revised plans.
- 6.6 Submission of Plans. Any Owner desiring to do or cause to be done any work requiring prior written approval of the Architectural Control Committee, as set forth in Section 6.2 above, shall submit to the Architectural Control Committee one complete set of plans therefore. Such plans shall include plot plans showing the location of the work, specifications showing the exterior design, height, building materials and color schemes of such improvement, the location and size of driveways, fencing, walls, and windbreaks, the grading plan, and the specific recommendations of professionals as provided in Section 7.2 below. The Architectural Control Committee may require that any such Owner submit additional or supplemental plans or information before being required to commence review of any plans submitted by such Owner.
- 6.7 Approvals. The Architectural Control Committee shall approve or disapprove completed plans within thirty (30) days after the receipt of all plans required pursuant to Section 6.6 above, said thirty (30) day period shall begin on the day following the first regularly scheduled Architectural Control Committee meeting at which such plans are considered. If no approval is provided by the Architectural Control Committee within that period, the plans shall be deemed approved. The plans with the approval or disapproval endorsed thereon shall be retained by the Architectural Control Committee for its permanent files. The Architectural Control Committee shall have the right to disapprove any plans submitted to it in the event (i) the same are not in accordance with all of the provisions of these covenants and the design regulations herein contained, (ii) the same are incomplete, or (iii) the Committee deems the intended improvements, or any part thereof, are not in harmony with the general character and aesthetics of the community, or are contrary to the interests, welfare or rights of all or any part of the Property or the Owner of any Lot. It is understood that the Architectural Control Committee has a certain discretion to approve or disapprove plans. No member of the Architectural Control Committee shall be liable in any manner for any action taken or failure thereof pursuant to this subsection.
- 6.8 Preliminary Plans. The Architectural Control Committee shall, on request, consider and discuss preliminary or sketch designs with Owners their architects or other agents in order to facilitate the approved process to the mutual benefit of all parties. However, the approval of preliminary or sketch designs by the Committee shall in no way alter or diminish the requirements or approval of the complete and final plans and described herein, nor shall it bind the committee in its decisions based on such complete and final plans.

- 6.9 Covenant Enforcement Fund. The Association's annual budget shall include, without limitation as to other amounts described in the annual budget prepared by the Board, each year an amount, not less the \$2,000.00, to be set aside into a Covenant Enforcement Fund. Such fund shall be utilized for the purpose of paying the costs, including reasonable attorneys' fees, incurred by the Architectural Control Committee in the enforcement of these covenants, or the rules and regulations promulgated hereunder. Any sums remaining in the Covenant Enforcement Fund at the end of the fiscal year shall remain in such fund for use during any subsequent year.
- 6.10 Limitation of Liability. Neither the Association, nor any member of the Board, the Architectural Control Committee, or any member thereof, shall be responsible in any way for any defects in any plans submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans. Approval of the Committee shall not constitute a warranty or guarantee of the safety or adequacy of the work to be done or the conformance thereof with building codes or other governmental laws or regulations.

## ARTICLE VII

### BUILDING AND DESIGN REGULATIONS

- 7.1 Square Footage/Height/Setback/Construction Materials Requirements. Any Dwelling Unit erected on any Lot shall contain a minimum living area in the main structure, exclusive of garages, porches, patios, decks, overhangs, terraces, or other unfinished living areas, of 2,000 square feet above ground; or as to be determined by the Architectural Control Committee acceptable to the Subdivision. All exterior surfaces of any building shall be of materials and of a color approved by the Architectural Control Committee. All Dwelling Units and outbuildings, shall have tile, Permatek or architectural shingle roofs unless otherwise approved by the Architectural Control Committee. Metal roofs will not be permitted in the Subdivision. A minimum two (2) car garage shall be required, and shall be at least twenty (20) feet deep and twenty (20) feet wide and contain a minimum of four hundred (400) square feet. No building shall exceed thirty-five (35) feet in height as measured from the highest natural ground level adjacent to such building to the highest point of the ridge line of such building unless approved by the Architectural Control Committee. Any building or Dwelling Unit may be erected on any Lot only within the Building Envelope for such Lot. All Dwelling Units shall be substantially constructed on-site, rather than modular, trailer, or otherwise constructed offsite to be assembled onsite.
- 7.2 Professional Review of Certain Matters. The Architectural Control Committee shall not approve the construction of any pond or pool without a watertight liner, or of any redirection of natural surface drainage channels, in each case without

having first received the opinion of a licensed engineer or geologist that such work will have no material adverse effects on the stability of the lands within the Subdivision or on subsurface drainage, wells or springs within the Subdivision; nor shall the Committee approve of the construction of any Dwelling Unit without having received the specific recommendations of a licensed engineer or geologist as to the bearing capacity of soils and the general suitability of the site of construction. The cost of obtaining any such opinion or recommendation shall be borne by the party seeking such approval. The Committee may, but need not, accept such opinion or recommendation from a licensed engineer or geologist representing such party. In general, the Committee may require such other professional review of work requiring its approval as it deems appropriate under the circumstances, in each case at the expense of the party seeking the approval.

- 7.3 Landscaping: A landscaping plan for each Dwelling Unit shall be submitted to the Architectural Control Committee concurrently with building plans for such Dwelling Unit. Such initial landscaping plan shall be completed in accordance with the Architectural Control Committee, as approved, within nine (9) months after a Dwelling Unit is initially occupied. Should this not occur, a monthly fee, as determined by the Architectural Control Committee, will be assessed against the Lot until such time as the required landscape work is completed. Such fines shall accrue after submission to Owner of written notification by certified mail, return receipt requested or by hand delivery with receipt. Those fines shall constitute a Compliance Assessment in accordance with Article V, Section 5.5 hereof. No living tree or trees, whether now or hereafter grown upon any part of the Property, shall be cut down without the prior written approval of the Architectural Control Committee provided, however, that this restriction shall not apply unless such tree is more than two inches (2") in caliper as measured one foot (1') above grade, and provided further that this restriction shall not be construed to limit in any way reasonable trimming of any trees within the Property. A family garden not to exceed one thousand (1,000) square feet is permissible, but no additional ground shall be broken for farming purposes. If outdoor lighting or awnings are to be installed on any building or structure, the proposed landscaping plan must contain the location and specifications for same. Prior to commencement of any construction of any fence, screening wall, retaining wall, arbor, gazebo, patio cover, hot tub, Jacuzzi, roof, other permanent addition or landscaping, and prior to any planting of trees or shrubs, written approval of the Architectural Control Committee shall be obtained in accordance with Article VII, Section 7.2 hereof. All Landscaping improvements, (except for initial landscaping improvements, as specified above), shall be completed within three (3) years after approval of plans by the Architectural Control Committee, or the Plan must be resubmitted to the Architectural Control Committee for reconsideration. All Lots shall be carefully maintained and kept free from noxious weeds and plants infected with noxious insects or plant diseases which, in the opinion of the Architectural Control Committee, are likely to spread to other property. The Architectural Control Committee shall be responsible for weed

control to include re-vegetation (for weed control) of land disturbed outside Lot boundaries.

- 7.4 Surface Water. All surface drainage, whether off site or on site, shall be permitted to freely pass through all Lots as required in order to reach its natural destination. All natural drainage ways shall be maintained in their existing condition and/or capacity. No primary or secondary structures, fences or other obstructions will be allowed within the 100-year flood limits as shown on file with Chaffee County. Any rechannelization or regarding of Lots shall be such that the historic draining route is not realigned so as to cause possible drainage problems with the adjacent property owners. No material change may be made in the ground level, slope, pitch or draining patterns of any Lot as fixed by the original finish grading except after first obtaining the prior written approval of the Architectural Control Committee. Grading shall be maintained at all times so as to protect foundations and footings from excess moisture.
- 7.5 Fences. In order to preserve the existing natural quality and aesthetics of the Property, no fences will be erected including dog runs or construction fences except within the building envelopes shown on the Plat, and further provided that such fence shall not exceed 42 inches in height. No barbed wire, snow, cable, cement, concrete, or concrete block, steel T-post and wire or chain link fences will be permitted. Cedar and stucco privacy and/or pet fences may be constructed on the sides and rear of a Dwelling Unit, provided that such fence shall not be more than six feet in height nor more than 20 feet away from the sides or rear of the Dwelling Unit. Special consideration will be given to perimeter lot fencing that is architecturally aesthetically compatible with the area.
- 7.6 Antennas. No exterior radio short-wave, or other types of antenna shall be installed unless approved by the Architectural Control Committee. TV satellite dishes, not larger than 18 inches in diameter may be placed on any residence.
- 7.7 Tanks. No propane, water or other tanks which extend above the ground shall be erected, placed or permitted on any Lot. Special consideration for screening can be addressed by the Architectural Control Committee.
- 7.8 Septic Tank Inspection and Maintenance. Each Dwelling Unit must be equipped with a septic tank system approved by the governmental authority having jurisdiction over the Subdivision. Septic tanks shall be inspected and pumped in accordance with regulations promulgated by such authority. Construction of fences, driveways, walkways, or landscaping (requiring irrigation) over the leach field on a Lot shall be prohibited.
- 7.9 Commencement/Completion of Construction. Before any construction or landscaping may be commenced upon any Lot in the Subdivision, written approval of the plans by the Architectural Control Committee pursuant to Section 6.7, and all applicable building permits must be obtained. Construction of any

buildings or other structures must be completed within eighteen (18) months after the date of Architectural Control Committee approval, or the Plans must be resubmitted to the Architectural Control Committee for re-approval. No Dwelling Units shall be occupied unless and until a certificate of occupancy has been obtained for same from the appropriate County building department.

- 7.10 Modification to Design Regulations/Additional Design Regulation. The Architectural Control Committee may promulgate and distribute to the Owners of Lots within the Property additional, specific design regulations for construction and improvement of Dwelling Units upon the Lots. None of these specific design regulations shall conflict with the provisions of this Declaration. The terms and conditions of this Article VII may be amended by a majority vote of the members of the Architectural Control Committee, a majority vote of the members of the Board of Directors, and by not less than fifty-one percent (51%) of the record Owners of Lots in the Property.

## ARTICLE VIII

### LAND USE RESTRICTIONS

- 8.1 County Regulations. Zoning ordinances, rules and regulations of the County of Chaffee, State of Colorado, are considered to be a part hereof, and to any extent that these covenants might establish minimum requirements which conflict with the minimum requirements established by said zoning ordinances, the most restrictive shall apply.
- 8.2 Residential Purposes. All Lots on the Property shall be used for residential purposes and no building shall be erected or placed on any Lot other than one private single-family dwelling, together with a private attached garage and such outbuildings as are customarily appurtenant to such a dwelling. An "outbuilding", as the word is used herein, is intended to mean an enclosed covered structure not directly attached to the dwelling which it serves.
- 8.3 Business Activity; Nuisances. No externally visible trade or business activity shall be conducted, carried on or practiced on any Lot or in a residence or Dwelling Unit constructed thereon. This prohibition shall specifically preclude auctions and garage sales, estate sales or other similar activities unless approved in advance by the Architectural Control Committee. Such request for approval must include plans for parking, placement and amount of signs and duration of activity. No Owner of a Lot shall suffer or permit any residence or Dwelling Unit erected thereon to be used or employed for any purpose that will constitute a nuisance in law or that will detract from the residential value of said Lot or any other Lot in the Property. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Lot and no odors shall be permitted to arise therefrom so as to render any such Lot or any portion thereof, in the opinion of

the Architectural Control Committee, unsanitary, unsightly, offensive, or detrimental to any other Lot or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon any Lot so as to be, in the opinion of the Architectural Control Committee, offensive or detrimental to any other Lot or its occupants. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells, or other sound device (other than security devices used exclusively for security purposes) shall be located, used or placed on any Lot without the prior written approval of the Architectural Control Committee.

- 8.4 Animals. No cows, pigs, horses, chickens, poultry, rabbits or other livestock shall be raised, grown, bred, maintained or cared for upon any Lot other than as hereinafter provided or unless approved by the Architectural Control Committee. Nothing herein contained shall prevent any Owner from maintaining, keeping and caring for domestic, household pets not maintained for commercial purposes; however, dogs, cats, and other household animals shall not be allowed to run at large off of their owner's Lots, and further provided that no more than three cats and/or dogs may be kept on any Lot at any time. Such animals shall, when off of their owner's Lot, be on a leash or under the voice control of their owner at all times. All Lots must be maintained in a clean and odor-free condition. Each Owner of a pet shall be financially responsible and liable for any damage caused by said Owner's pet, and shall be responsible for the pickup and disposal of any excrement deposited by his or her pet.
- 8.5 Unsightly Articles, Storage, Trash. No unsightly article shall be permitted to remain on any Lot or on streets and drives within the Subdivision so as to be visible from adjoining property. All equipment, garbage cans or woodpiles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring Lots and streets. All rubbish, trash or garbage shall be regularly removed from each Lot, and shall not be allowed to accumulate thereon. Storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view. No lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap shall be kept, stored or allowed to accumulate on any Lot except within an enclosed structure or in an area appropriately screened from view. Snow removal equipment as well as garden and maintenance equipment shall be kept at all times in an enclosed structure except when in actual use and no repair or maintenance work shall be done on any of the foregoing, or on any motorized vehicles, other than minor emergency repairs, except in an enclosed garage or other structure. All vegetation throughout the entire Subdivision, with the exception of trees, marsh grasses, shrubs, yuccas and other landscaping plants, shall be limited to twelve inches in height.
- 8.6 Temporary Structures. No structure of a temporary character nor any trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding shall be erected or maintained on any Lot at any time as a residence, either temporarily or permanently. No temporary building or structure shall be placed on any portion

of the Property without the prior approval of the Architectural Control Committee.

- 8.7 Signs. The placement, construction or maintenance of billboards, "for rent" or "for sale" signs shall be located on any Lot only at ground level. The size of all such signs shall be limited to six square feet per side, per sign. No more than one (1) sign per Lot will be permitted, unless the Lot borders on more than one (1) street, in which case one sign will be permitted adjacent to each street, not to exceed two (2) signs. When an open house is held, and then only when a sales representative is present on the Lot, one (1) "open house" sign meeting the above requirements will be permitted. In case of an open house and in the event that the subject Lot is not readily visible from Spring Creek Road, then one (1) "open house arrow" sign (not to exceed two (2) square feet in area per side) will be permitted in the portion of the Open Space adjacent to Spring Creek Road, which portion is closest to the street to which the applicable Lot is adjacent. All "open house" signs and "open house arrow" signs shall be removed upon the completion of each open house session (when the sales representative(s) vacates the subject property). With the exception of the permitted signage described above, no poster boards, advertising structures, or advertising signs of any nature, balloons, banners or flags will be permitted on any Lot or on the Open Space without the prior approval of the Architectural Control Committee.
- 8.8 Campers or Trailers/Parking. No campers, mobile homes, trailers, boats, buses, or other similar recreational equipment, and no tractors, mowers, horse trailers, commercial equipment, or similar vehicles shall be kept or maintained so as to be visible on any Lot or on any street within the Subdivision unless specifically permitted in writing by the Architectural Control Committee.
- 8.9 Drilling or Mining. No oil or gas drilling, oil or gas development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil or gas wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted on any Lot.
- 8.10 Hunting. No hunting of mammals, reptiles or birds within the Subdivision shall be permitted otherwise than with the approval of the Architectural Control Committee to eliminate a nuisance or to protect the health, safety and welfare of Owners.
- 8.11 Firearms. No firearms shall be discharged within the Subdivision.
- 8.12 Maintenance/Repair of Buildings. No building, structure or other improvement on any Lot shall be permitted to fall into disrepair or to remain otherwise than in good, sanitary and sightful condition and each such building, structure and improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any building, structure or



improvement is damaged or destroyed then, within one hundred and eighty (180) days after such event, but subject to the approvals repaired by Article VI, Section 6.2 above, such building, structure or improvement shall be immediately repaired or rebuilt or shall be demolished and the site re-vegetated.

- 8.13 Dead Vegetation. All dead vegetation or otherwise hazardous material shall be promptly removed. Any dead vegetation may be replaced with a replacement plant(s) without prior approval of the Architectural Control Committee. However, this provision, which is to facilitate fire protection, shall not require any Owner to remove live trees or landscaping vegetation.
- 8.14 Health, Safety and Welfare. In the event any additional uses, activities, and facilities are determined by the Architectural Control Committee to be a nuisance or to adversely affect the health, safety or welfare of Owners of Lots within the Property, the Architectural Control Committee may make recommendations to the Board of Directors to make rules restricting or regulating the presence of such uses, activities and facilities on the Property as part of the Association Rules.
- 8.15 Amendment of Land Use Restrictions: The terms and conditions of this Article VIII may be amended by (i) a majority vote of the Members of the Architectural Control Committee, (ii) a majority vote of the Members of the Board of Directors, and (iii) by not less than fifty-one percent (51%) of the record Owners of Lots in the Property.

## ARTICLE IX

### VARIANCES

The Architectural Control Committee, by a majority vote of its members, in its sole discretion, may grant reasonable variances and exemptions from and adjustments of any of the covenants in this Declaration in order to overcome practical difficulties and prevent unnecessary hardships in the application thereof; provided, however, that such is done in conformity with the intent and purposes of this Declaration and provided also that in every instance such variance, exemption or adjustment shall minimize developmental impact according to the spirit of these covenants and shall not be materially detrimental or injurious to any other Lot or to the Common Area.

## ARTICLE X

### FINAL NOTES

- 10.1 Interpretation of the Covenants. Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of

competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all person and property benefited or bound by the covenants and provisions hereof.

- 10.2 Severability. Any determination by any court of competent jurisdiction that any of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.
- 10.3 Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule Against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuation starts to run on the challenged interest; the lives in being for computing the period of perpetuities shall be (a) those which would be used in determining the validity of the challenged interest, plus (b) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.
- 10.4 Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.
- 10.5 Gender and Number. Whenever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural and words in the plural shall include the singular.
- 10.6 No Waiver/Limitation. The failure of the Owners, the Architectural Control Committee, or the Association to enforce any of the conditions, covenants, restrictions or reservations herein contained shall in no event be deemed to be a waiver of the right to do so for subsequent violations or of the right to enforce any other conditions, covenants, restrictions or reservations and the Owners of the Architectural Control Committee shall not be liable therefore.
- 10.7 Captions and Titles. All captions, titles or heading of the articles and sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.
- 10.8 Notices. Any notice permitted or required under this Declaration shall be in writing and may be given either personally or by mail, facsimile or telegraph. If served on a Member by mail, each notice shall be sent postage prepaid, addressed to such Member at the address of public record or the address given by such Member to the Association for the purpose of service of such notice and shall be deemed given, if not actually received earlier, at 5:00 P.M. on the third day after

CHAFFEE COUNTY, SALIDA CO REC \$141.00  
JOYCE M. RENO, COUNTY CLERK AND RECORDER

09/24/2002 RECPT-329187  
09:45:00AM 27 OF 28

CHAFFEE COUNTY, SALIDA CO REC \$141.00  
JOYCE M. RENO, COUNTY CLERK AND RECORDER

09/12/2002 RECPT-328853  
08:00:00AM 27 OF 28

it is deposited in a regular depository of the United States Postal Service. Such address may be changed from time to time by notice in writing to the Association.

10.9 Violation of Law. Any violation of any federal, state, municipal or local law, ordinance, rule or regulation, pertaining to the ownership, occupancy or use of any property within the Property is hereby declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

10.10 Plat Notes. In addition to this Declaration, the Subdivision, and all Lots therein, shall be subject to the notes, terms and conditions, all as recorded on the Plat.

10.11 Septic Systems. Septic systems shall be engineered in accordance with the Chaffee County Health Department guidelines and specification.

IN WITNESS WHEREOF, the undersigned sets his hand and seal this  
23 day of September 2002.

<sup>P</sup>  
UTE DEVELOPMENT CORPORATION

By: Thomas M. Eve  
Thomas M. Eve, President

CHAFFEE COUNTY, SALIDA CO REC \$141.00  
JOYCE M. RENO, COUNTY CLERK AND RECORDER

09/24/2002 RECPT-329187  
09:45:00AM 28 OF 28

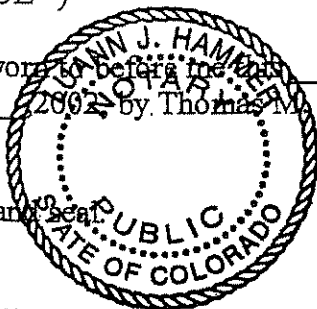
CHAFFEE COUNTY, SALIDA CO REC \$141.00  
JOYCE M. RENO, COUNTY CLERK AND RECORDER

09/12/2002 RECPT-328853  
08:00:00AM 28 OF 28

ACKNOWLEDGEMENT

STATE OF COLORADO )  
 ) ss.  
COUNTY OF ARAPAHOE )

Subscribed and sworn to before me this 23 day of  
September 2002 by Thomas M. Eve, President of Ute Development  
Corporation.



Witness my hand and seal

My commission expires: My Commission Expires 06/13/2006

Dawn J. Hammer  
Notary Public