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SCOTT DOYLE, RECORDER, LARIMER COUNTY CO
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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HIDDEN VALLEY ESTATES II R. L. U. P.

ARTICLE I-RECITALS

Declarant is the owner of that certain real property situate in Larimer County, Colorado, described on Exhibit A hereof ("the Property"). The Property has been platted as Hidden Valley Estates II R. L. U. P, and the plat has been recorded at Reception No. 2003054011("the Plat"). The Property and this Declaration is also subject to a Development Agreement between Declarant and Larimer County, a political subdivision of the State of Colorado recorded at Reception No. 2003054012In the event that there is an inconsistency between the Development Agreement and this Declaration, the Development Agreement shall control.

Declarant desires to develop the Property for residential purposes. Declarant deems it desirable to subject the Property to the covenants, conditions, and restrictions set forth in this Declaration in order to preserve the values of the individual Lots and to enhance the quality of life for all owners of such Lots.

The Property shall be a "planned community" under the Colorado Common Interest Ownership Act ("the Act"). The number of Lots platted in Phase One totals 13; as additional phases are added, the maximum number of residential Lots within the entire planned community shall be as approved by Larimer County. Declarant shall have the right to record an additional plat or plats to add subsequent phases to the Property, by not later than December 31, 2009. There are three residual Lots in Hidden Valley Estates II R. L. U. P. encumbered by a preexisting perpetual conservation easement held by Colorado Open Lands, and these lots shall not be used for any purpose in conflict with the specific language of said conservation easement. In addition, any or all residual Lots or any residential Lots may be conveyed to Larimer County or other government entity for open space, natural area, or open lands purposes, and in the event such conveyance occurs, such Lot or Lots conveyed shall not be subject to nor bound by the terms, conditions or restrictions set forth in this Declaration. Residual lots A, B, and C shall be maintained under single ownership as referenced in 2.03.

As partial consideration for acceptance and monitoring of the Conservation Easement by Colorado Open Lands, each time the fee simple interest in a Home Site is conveyed or transferred as defined by section 6.13, each purchaser ("transferee") of a Home Site shall pay to Colorado Open Lands a transfer fee at the time of transfer in the amount of one quarter of one percent (.25%) of the purchase price of the transferred Home Site, including any and all improvements located thereon.

The buildings and landscaping located on Phase One lot One were in existence prior to the platting of Hidden Valley Estates. A variance from Article IV-Architectural

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Standards, is therefore granted for any existing buildings and landscaping on that lot at the time of recording. Any future improvements to the lot must comply with the provisions of Article IV.

Certain of the improvements within Hidden Valley Estates, mostly involving connecting streets and entrance, also are used by, and benefit others who are not members of the Hidden Valley Estates Homeowners' Association. So that related expenses and responsibilities are equitably shared, it is anticipated that a separate users group will be formed consisting of all such users, and that this entity will be separate from the Hidden Valley Homeowners' Association. In this event, the Directors of Hidden Valley Estates may, at their option, decide to either collect and forward the Association's portion to such entity, or direct the lot owners to pay their portion directly to such entity. In any case the lot owners are required to pay their assessment as directed.

Declarant therefore declares that all of the Property is and shall be held, transferred, sold, conveyed and occupied subject to the terms, restrictions, limitations, conditions, covenants, obligations, liens, and easements which are set forth in this Declaration, all of which shall run with the Property and shall inure to the benefit of, and be binding upon, all parties having any right, title, or interest in the Property or any portion thereof, and such person's heirs, grantees, legal representatives, successors and assigns.

ARTICLE II- DEFINITIONS

2.01 **Architectural Review Board** shall mean and refer to the Architectural Review Board created pursuant to Article V of this Declaration.

2.02 **Association** shall mean and refer to Hidden Valley Homeowners' Association, Inc., a Colorado non-profit corporation, established pursuant to Article VI of this Declaration.

2.03 **Common Areas** shall refer to Residual Lots A, B, and C. of Hidden Valley Estates II R. L. U. P. If, and when future phases are added to the Property, certain additional common areas of the nature described herein shall be identified on the plat. If certain residual Lots are conveyed to others for conservation purposes, they shall no longer be a part of the common areas, excepting that residual Lots A, B, and C of Hidden Valley Estates II R. L. U. P. shall be maintained under a single ownership.

2.04 **Detached Single Family Dwelling** shall mean an independent structure designed and occupied as a residence for a single family.

2.05 **Developer** shall mean Backbone Investments, LLC, its successors and assigns.

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2.06 **General.** The words and terms defined in this Article shall have the meanings herein set forth unless the context clearly indicates otherwise.

2.07 **Guest** shall mean any member of the household, agent, guest, employee, tenants or invitee of an Owner.

2.08 **Lot** shall mean a Lot as platted and designed for residential use, as the same may be amended from time to time; provided that, if any Lot has been divided so that a portion of the Lot is owned by a person in conjunction with all or a portion of an adjoining Lot and the other portion of the Lot is owned by another person separately or in conjunction with all or a part of the other adjoining Lot, then the entire property so held under one ownership shall be the Lot for the purpose of this Declaration. Lot does not include or mean a Residual Lot

2.09 **Management Plan** shall mean the "Management plan for residual lands and open space owned by the Homeowner's Association of Hidden Valley Estates Rural Land Use Development".

2.10 **Other Terms.** Other terms may be defined in specific provisions contained in this Declaration and shall have the meaning assigned by such definition.

2.11 **Residual Lot** shall mean a Lot shown on the Plat and designated by a letter and set aside for any of the following purposes:

2.11.1 To protect native and natural plant and wildlife habitat;
2.11.2 To provide scenic enjoyment for the residents and users of the County's Devil's Backbone Open Space;
2.11.3 To provide ecological support for raptors, predators and other wildlife species using this and surrounding lands as habitat;
2.11.4 To preserve and protect, insofar as practical without compromising health and safety, the natural disturbance processes which periodically affect the site; and
2.11.5 To protect the mine reclamation and land fill areas to preclude human disturbance or environmental degradation.

If and when additional phases are added to the Property, certain additional common areas that shall also be described as Residual lots may be identified as such on the plat of such phase. Certain Residual Lots may be conveyed to others for conservation purposes only.

2.12 **Single Family** shall mean a group of persons related by blood or marriage living together as a family unit.

2.13 **Subdivision** shall mean Hidden Valley Estates II R. L. U. P. in Larimer County, Colorado.

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ARTICLE III—USE AND OTHER RESTRICTIONS

3.01 **Land Use and Building Types.** No Lot shall be used, except as the site of a detached single-family dwelling. Said dwelling may include a private garage, attached or detached, having doors accommodating not more than four cars or other vehicles abreast of one another.

3.02 **Building Locations.** No building, fence, garage, shed, or other permanent structure shall be located on any Lot or on Residual Lot without first obtaining the written consent of the Architectural Review Board, approving the proposed location.

3.03 **Easement for Utilities and Drainage.** Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plats, or those that may be recorded at a later date. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements. If any landscaping is installed which violates such requirements, the Association may give the property owner written notice to remove such landscaping within no less than fifteen (15) days from the date of the written notice and if the owner fails to move the landscaping within that time, the Association may have such done at the expense of the owner of the Lot. If the work is done by the Association it shall be at the owner's expense and the owner shall pay for such work within five (5) days from the date of the written notice to the owner as to the cost of such work. In the event of failure to pay within that time and if the Association thereafter incurs any attorney's fees and costs in collecting such amount from the owner, all such attorney's fees and costs incurred shall likewise be a debt owing by the owner to the Association.

The easement area of each Lot and all improvements on it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

3.04 **Maintenance of Vacant Lots.** Prior to the start of construction of a residence on each Lot, the Association shall have the right to plant and maintain grass on it; periodically mow such grass and other vegetation; and remove any trash or other debris. The Association shall establish and charge reasonable fees to the owners of such vacant Lots, for such services. Such services shall NOT be deemed included within those contemplated by Section 6.08 of this Declaration, but shall instead be deemed a service charge from the Association made solely to the owners of each of such vacant Lots. The service charges shall be based upon cost projections from the contractor employed by the Association to maintain the Common Areas, and such service charges need not be identical for the Lots. Such service charge shall be due and payable on or before February 15 of each year, for each Lot on which construction of a residence has not been commenced by December 1 of the preceding year. When a residence is completed during a year for which such service charge has been paid, the Association shall grant the owner

a year for which such service charge has been paid, the Association shall grant the owner involved a credit against the future assessments, on a prorated basis using the calendar year as the proration time period and basing such proration upon the date that a certificate of occupancy is issued for a residence on the Lot involved. The owner shall be liable for reasonable attorney's fees and costs incurred by the Association in collecting such service charge.

3.05 **Maintenance of Landscaping.** Commencing as to each Lot when a certificate of occupancy has been issued for a residence on such Lot, the landscaping on each Lot shall be maintained by the owner, subject however, to the right of the Association to perform any maintenance deemed necessary or desirable to maintain the high standards established for the Subdivision, and to assess such owner for such required maintenance. If any owner fails to maintain landscaping on such owner's Lot the Association may give the property owner written notice to perform necessary maintenance within no less than fifteen (15) days from the date of the written notice, and if the owner fails to perform such maintenance work within that time, the Association may have such work done at the expense of the owner of the Lot. If the work is done by the Association it shall be at the owner's expense and the owner shall pay for such work within five (5) days from the date of the written notice to the owner as to the cost of such work. In the event of failure to pay within that time and if the Association thereafter incurs any attorney's fees and costs in collecting such amount from the owner, all such attorney's fees and costs incurred shall likewise be a debt owing by the owner to the Association.

3.06 **Maintenance of Exteriors of Residences and Other Buildings.** The owners thereof shall maintain the exteriors of all residences, barns, sheds and other buildings within the Subdivision in good, attractive condition. All residences shall be repainted or restained periodically as needed. The Association may require an owner to paint or stain his residence and other buildings, and upon such owner's failures to do so, the Association may cause such residence or other buildings to be painted or stained and to assess such owner for the costs incurred thereby. If any owner fails to maintain the exterior of a building on such owner's Lots in accordance with the foregoing requirements, the Association may give the owner written notice to perform such work within no less than fifteen (15) days from the date of the written notice, and if the owner fails to perform such work within that time, the Association may have such work done at the expense of the owner. If the work is done by the Association it shall be at the owner's expense and the owner shall pay for such work within five (5) days from the date of the written notice to the owner as to the cost of such work. In the event of failure to pay within that time and if the Association thereafter incurs any attorney's fees and costs in collecting such amount from the owner, all such attorney's fees and costs incurred shall likewise be a debt owing by the owner to the Association.

3.07 **Title to Common Areas.** The Developer may retain legal title to all or part of the Common Areas until such time as, in the opinion of the Developer, the Association is able to maintain the same. However, the Developer shall convey the

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Common Areas to the Association not later than thirty (30) days after the date when the Developer is fee simple owner of less than 10% of the Lots within the Subdivision, exclusive of the Common Area. The Developer will notify Colorado Open Lands when title is conveyed.

3.08 **Extent of Member's Easements.** The rights and easements of enjoyment of the Common Areas shall be subject to the following:

3.08.1 The right of the Association, as provided by its Articles of Bylaws, to suspend the enjoyment rights of any member for any period during which any assessment remains unpaid; and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations;

3.08.2 The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for the purposes set forth above for the creation of the residual Lots, and subject to such conditions, as it may agree to, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by the members entitled to cast two-thirds (2/3rds) of the votes has been filed with the Association, agreeing to such dedication, transfer, purpose or condition, and unless written notice of a purposed agreement and action there under is sent to every member at least ninety (90) days in advance of any action;

3.08.3 The right of the Association to limit the number of guests of members and the circumstances under which guests may use the Common Areas;

3.08.4 No use is permitted in the common areas which conflicts with the purposes for their creation;

3.08.5 This Section 3.08 shall not apply to the conveyance to Larimer County of an access easement pursuant to the agreement concerning Conveyance of Highway 34 Access Easement to Devil's Backbone Trailhead dated July 3, 2002 between the Board of County Commissioners of Larimer County, Colorado and Backbone Investments, LLC.

3.09 **Nuisances.** No noxious of offensive activities shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

3.10 **Temporary Structures.** No structure of a temporary character, trailer, basement, tent, storage shed or shelter, garage, barn or other outbuilding shall be permitted on any Lot at any time, either temporarily or permanently, except by the developer during the process of construction, or as approved by the Architectural Review Board.

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3.11 **Horse Stable and Recreational area.** A building envelope has been set aside on Residual Lot A of Hidden Valley Estates II R. L. U. P. for a horse stable for homeowner's horses, not to exceed 5000 square feet. An adjacent location has been set aside on Residual Lot A for a corral. Additionally, other recreational facilities as outlined in 6.05 may be added. The horse stable, corral, and any additional recreational facilities shall be contained in the recreational area on Residual Lot A. Any Lot owner or group of Lot owners, after providing notice of the opportunity of all Lot owners to participate, may, at their own expense, construct a stable and corrals for their personal and exclusive use within the area, provided that they have first obtained the approval of the Architectural Review Board. Access between the roads and recreational area in Residual Lot A for homeowners, vehicles, and their horses shall not be restricted. The Lot owners who build said stable and corrals shall bear the sole responsibility for all costs of design, construction, maintenance, and removal of said stables and corrals. Said individuals shall hold the association harmless for any and all claims whatsoever and shall maintain insurance satisfactory to the Association.

3.12 **Animals.** No animals of any kind shall be raised, bred, or kept on any Lot on a commercial basis. Dogs, cats, and house pets are permitted but must be under Owner's or Guests' control at all times when out of doors. Control can be physical or trained control, in all events in the presence of Owners or Guest. No other animals may be kept on any residential Lot.

3.13 **Trails.** Individuals may walk, jog, or run on trails and may be accompanied by no more than two dogs per individual. Generally no vehicle of any kind except for motorized or non-motorized wheelchairs, whether or not powered by an engine of any nature, shall be allowed on any trail at any time; this prohibition shall include, but shall not be limited to, bicycles, motorcycles, and automobiles. The Association may make special rules that may then permit horses and/or bicycles to such extent as the Association may determine except that if, in the opinion of the Environmental Professional under the monitoring program set forth in the Management Plan, horses and bicycles are causing excessive erosion, other environmental damage in conflict with the purposes of the residual Lots, the Association shall limit the area, time, extent or otherwise regulate these activities to reduce the environmental impact of trails.

3.14 **Sight Distance at Intersections.** No fence, wall, hedge, or shrub planting which obstructs site lines at elevations between 2 and 6 feet above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within 10 feet from the intersection of a street property line within the edge of a driveway pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight line.

3.15 **Recreational Vehicles.** No trailer, motor home, camper unit, boat or similar recreational vehicle shall be parked on streets, driveways, Lots or be allowed to remain anywhere within the Subdivision, except when sheltered within a garage or hidden from general view by appropriate screening as may be approved by the Architectural Review Board under guidance from the Association's board of directors.

3.16 **Aerial-Antennas.** No television antennae, radio antennae, or similar equipment of any design shall be mounted on the exterior front of any building. Fixed towers and large beam antennae are not permitted. Antennae of low visibility including vertical type, small dishes, wire antennae, and tilt-up or crank-up installations that are raised only during actual hours of use and whose location and at-rest-screening the Architectural Review Board has approved in advance, shall be permitted. Larger satellite dishes may be installed and maintained if screened from the view of other owners and occupiers of Lots. The Architectural Review Board must approve the location and screening method for such satellite dish in advance.

3.17 **Fencing.** No fence shall be erected on any Lot within the Subdivision except as approved in advance by the Architectural Review Board. Privacy and other fences shall not exceed six feet in height and shall be of a solid fence design as approved from time to time by the Architectural Review Board.

3.18 **Wind or Solar-Powered Generators.** No wind-powered or solar-powered generator or pump may be installed on any Lot unless the Architectural Review Board approves its location and design in advance.

3.19 **Landscaping.** Each Lot has sufficient water rights to irrigate 20,000 square feet of landscaped area (not including driveways, paved walkways, and the area covered by buildings). Lot owners shall not extend irrigation systems beyond this area without permission from the City of Loveland. All irrigated landscaping, including grass, shall be irrigated as required, trimmed and maintained in good condition at all times. Lot owners shall retain and/or restore natural foothill vegetation on the unirrigated portions of the Lots. Where shrubs are naturally present, they may be retained. Where shrubs are not naturally present the vegetation should be short grass prairie species to reduce wildfire hazard.

3.20 **Unsightly Uses.** All Lots shall at all times be maintained in a clean and sanitary condition, and no litter or debris shall be deposited or allowed to accumulate on any Lot. Refuse piles and other unsightly objects or materials shall not be allowed to be placed or to remain upon any Lot unless entirely screened from view from adjacent Lots, streets, or common areas. No firewood, sand boxes, swimming pools, swing sets, basketball goals, posts or hoops, or other recreational equipment shall be placed or allowed to remain so that it is visible from either the street or the neighboring Lot(s) except as approved in advance by the Architectural Review Board. Trash containers shall be placed on the curb and returned from the curb only on pickup days. Nothing unsightly shall be hung from windows, railings, or fences. No clotheslines or other device for

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hanging clothes in general view shall be allowed on any Lot.

3.21 **Trash Removal.** All residents within the Subdivision shall have their trash picked up by the same trash-hauling company, on the same day of the week. At each annual meeting of the Association, the Association shall pick the trash-hauling company and day of the week for the upcoming year. Nothing in this Section 3.21 shall prohibit a resident within the Subdivision from hauling trash or debris for himself or herself. Each resident within the Subdivision shall be separately liable for the trash-hauling charges attributable to his or her Lot.

3.22 **Mineral Exploration.** No individual owner within the Subdivision shall explore for or remove any oil, gas, gravel, or minerals of any sort. By agreement with U. S. G. Corporation, mining is not permitted on the site.

3.23 **Home Occupations.** The conduct of a home occupation within a residence in the Subdivision shall be considered accessory to the residential use and not a violation of these Covenants provided that the following requirements are met:

3.23.1 Such home occupations shall be conducted only within the interior of the dwelling and shall not occupy more than twenty-five (25) percent of the floor area within the dwelling;

3.22.2 The home occupation shall be conducted only be the residents of the dwelling, and no nonresidents shall be employed in conjunction with the home occupation carried on in the dwelling;

3.23.3 No retail sales shall be conducted on the Lot;

3.23.4 The conduct of such home occupations must be permitted under the Zoning Resolution of Larimer County;

3.23.5 Only those home occupations that require no off street parking at or near the residence in conjunction with such occupation shall be allowed; and

3.23.6 No evidence of a home occupation, including signs or other advertising, shall be visible from outside the dwelling unit.

3.24 **Disabled Vehicles.** Disabled automobiles shall not be stored on streets, driveways, Lots, or common areas within the Subdivision. No person shall repair or rebuild any vehicle within the Subdivision, except within a garage. Cars allowed on the streets and driveways in the Subdivision must at all times be operable, currently licensed, and maintain a current inspection sticker (if such inspection is required by a governmental entity).

3.25 **Restrictions on Leasing of Residences.** An owner may lease his residence subject only to the following restrictions:

3.25.1 No Lot owner may lease less than the entire residence; and

3.25.2 Any lease agreement shall be required to provide that the terms of this lease shall be subject in all respects to the provisions of this Declaration, and the Bylaws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing and for a term not less than thirty (30) days.

3.26 **Trees and Ground Cover.** No grading or other soil or earthwork shall be performed on a Lot until plans for placing improvements on such Lot have been properly approved by the Architectural Review Board, and then only to the extent contemplated by such approved plan. After completion of each set of improvements on a Lot, the ground shall be restored, as near as possible, to its original contours and appearance. Contour changes of more than one foot from existing grades shall require approved by the Architectural Review Board. All disturbed areas shall be replanted with an acceptable groundcover. Landscaping shall be completed and maintained as per plans approved by the Architectural Review Board.

3.27 **Hazardous Materials.** Storage, use or disposal of hazardous or radioactive materials within the Property is prohibited, unless specifically approved in advance by the Architectural Review Board.

3.28 **Solar Devices.** The utilization of passive or active solar energy devices is encouraged. However, all solar devices must be architecturally and aesthetically integrated into the structure they serve or are screened from the view of the street and adjacent Lots and streets. The Architectural Review Board must approve all solar devices, and their placement.

3.29 **Commencing and Finishing Construction.** Once construction of any structure is commenced on any Lot, with the prior approval of the Architectural Review Board, such structure must be diligently continued and completed in accordance with the plans and specifications approved by the Architectural Review Board, within fifteen (15) months of commencement, or such longer time as the Architectural Review Board has reasonably consented to, in light of the nature of the project or other factors. Commencement of construction shall be deemed to commence with the excavation of the foundation.

3.30 **Rebuilding.** Any structure which is destroyed in whole or part by fire, windstorm or from any other cause or act of God must be rebuilt, or all debris must be removed and the Lot restored to a sightly condition, within six months of the time the damage occurs.

3.31 **Parking and Vehicle Storage.** No trucks, trail bikes, snowmobiles,

campers, trailers, boats, boat trailers, vehicles other than passenger vehicles or pickup or utility trucks with a capacity of one ton or less shall be parked, stored, or otherwise kept on any Lot within the Subdivision, unless kept in a closed garage. No skimobile, snowmobile, or other recreational vehicle powered by an internal combustion engine may be operated within the Subdivision except for purposes of ingress and egress. The foregoing restrictions shall not be deemed to prohibit commercial and construction vehicles from making deliveries or otherwise providing services to the Lots, in the ordinary course of their business. Additional provisions regarding recreational vehicles are covered under Sec. 3.15. No vehicle of any kind except construction vehicles engaged in maintenance or construction shall be parked, stored, or otherwise kept on any street or common area within the Subdivision.

3.32 **Outside Lighting.** No exterior lighting shall be installed or maintained on any Lot except as approved by the Architectural Review Board.

3.33 **No Subdivision.** No Lot shall be subdivided or utilized for more than one detached single family dwelling (with associated outbuildings and structures) without the prior approval of the Architectural Review Board. Boundary adjustments between neighboring Lots shall be allowed, subject to the approval of the Architectural Review Board and Larimer County so long as the total number of Lots within the Subdivision is not thereby increased.

3.34 **Sales Offices, Management Offices, and Models.** Developer reserves the right to maintain sales offices, management offices, and models in the Subdivision. Developer may maintain no more than one sales and one management office at any one time, each of which shall not exceed 1,000 square feet in size. Developer shall promptly remove every such sales or management office from the Subdivision when all Lots have been sold. Developer and residential builders to whom Developer has sold Lots may construct and maintain model residences within the Subdivision. Such model residences shall not exceed 5 at any point in time. Such sales on any Lot or Lots within the Subdivision, and their location may be changed from time to time to other Lots within the Subdivision. Developer may maintain signs on the Common Areas within the Subdivision, subject to state laws and local ordinances.

ARTICLE IV-ARCHITECTURAL STANDARDS

4.01 **Restrictions.** No building, barn, corral, shed, storage structure, awning, fence or other structure shall be erected, placed or altered on any Lot, nor shall there be any external modifications to any such structure, until the plans and landscaping specifications showing the nature, kind, shape, height, materials and location of the same have been submitted to and approved by the Architectural Review Board in writing. No landscaping shall be installed on any Lot, or altered thereafter, unless a landscaping plan showing the nature, type, height, and location of the proposed landscaping improvements has been submitted to and approved in advance by the Architectural Review Board, in writing. Without limiting the generality of the foregoing, prior approval of the

Architectural Review Board must be obtained for any of the following: (i) attachments to the exterior of a structure, (ii) installation of greenhouses, (iii) installation of patio covers, landscaping, screening, trellises, and the like, (iv) change in exterior paint colors, (v) installation of any barn, corral, shed, or storage building and (vi) any other exterior change, including cosmetic changes such as garage doors, shutters and the like. The authority of the Architectural Review Board shall extend to the quality, workmanship and materials for any structure proposed; the conformity and harmony of exterior design and finish with existing structures within the Subdivision; location of all structures with respect to the existing buildings, topography and finished ground elevation and all other matters required to assure that such structures enhance the quality of the Subdivision and are erected in accordance with the plan for the Subdivision. No metal buildings shall be permitted unless the Architectural Review Board approves.

4.02 **Guidelines and Rules.** The Architectural Review Board shall adopt Guidelines and Rules governing the type of structures to be permitted in the Subdivision, permitted construction materials and the like. Such guidelines shall include permitted materials and finish, including colors which are approved in advance for the exterior of structures in the Subdivision. The Guidelines and Rules shall be as determined from time to time by the Association, shall be in writing, and shall be available to all interested parties at any time.

4.03 **Garages.** Each dwelling shall include an attached or detached garage accommodating at least two automobiles.

4.04 **Setbacks.** Each single family detached dwelling shall be located within the platted building envelope. The plans submitted by each owner of a corner Lot shall identify the building envelope and boundary of the Lot.

ARTICLE V-ARCHITECTURAL REVIEW BOARD

5.01 **Establishment and Membership of Architectural Review Board.** Developer has established an Architectural Review Board. The Architectural Review Board shall continue until such time as the Association may be dissolved, however, until such dissolution the Architectural Review Board shall be subject to and function as an approved committee of the Subdivision's board of directors. The Architectural Review Board shall initially consist of one or more individuals appointed by Developer. Developer may, from time to time, replace review board members or appoint additional members bringing the total to not more than five (5) individuals. Until all Lots within the Subdivision have been sold by the Developer, or December 31, 2009, whichever date occurs first, the Developer shall appoint the Architectural Review Board, including replacement members for any person who retires, resigns, or otherwise becomes unavailable for service as a member or alternate member of the Architectural Review Board. The Association shall name the members of the Architectural Review Board, once the Developers exclusive right to do so ceases. Appointed members may include professionals who are architects, engineers, and contractors. Such members may be paid

members of the Architectural Review Board. Such members of the Architectural Review Board shall not review plans for projects on which they are providing professional services to the applicant. The non-professional members of the Architectural Review Board shall designate alternate members to serve in place of the disqualified professional, in each such instance. An individual who resides in the Subdivision shall be ineligible for appointment as a professional member of the Architectural Review Board; an individual, who owns one or more Lots within the Subdivision, without residing therein, shall not be disqualified. Other members of the Architectural Review Board need not be qualified in the professions indicated and shall not be paid members of the Architectural Review Board. Two nonprofessional members shall serve as co-chairpersons of the Architectural Review Board. When the Association, acting through its board of directors, attains the right to name the members of the Architectural Review Board, the nonprofessional members appointed by it shall be members of the Association. Members of the Architectural Review Board appointed by the Developer may be removed at any time by Developer and shall serve until they resign or are removed by Developer. Members of the Architectural Review Board appointed by the Association's board of directors may be removed at any time by the Association's board of directors, and shall serve for such term as may be designated by the Association's board of directors or until they resign or are removed by the Association's board of directors.

5.02 **Approved Builders.** The Architectural Review Board shall maintain an approved builders list ("the List"). The List shall be compiled in accordance with criteria such as the respective builders' quality of workmanship, length of experience, financial condition, and other relevant factors as determined by the Architectural Review Board. The Architectural Review Board shall have the right to revise the List of approved builders from time to time, as it deems appropriate. Owners of Lots may select a different builder, provided that the builder shall submit a description of at least three homes constructed by the builder within the Northern Colorado area and which are of near or equal quality and scope and such other evidence that the Architectural Review Board shall require to assure the qualifications of said builder. Otherwise Owners of Lots within the Subdivision shall contract only with approved builders for the construction of residences within the Subdivision, and the Architectural Review Board may reject any application for which an approved builder will not be involved.

5.03 **Address of Architectural Review Board.** The address of the Architectural Review Board shall be at the principal office of the Association.

5.04 **Submission of Plans.** Prior to commencement of work to accomplish any proposed improvement on a Lot in the Subdivision, the person proposing to make such improvement ("Applicant") shall submit to the Architectural Review Board, at its office, such descriptions, surveys, plot plans, drainage plans, elevation drawings, landscaping plans, construction plans, specifications and samples of materials and colors as the Architectural Review Board shall reasonably request showing the nature, kind, shape, height, width, color, materials, and location of the proposed improvement to Subdivision. The Applicant shall be entitled to receive a receipt for the same from the Architectural

Review Board or its authorized agent. The Architectural Review Board may require submission of additional plans, specifications or other information prior to approving of disapproving the proposed improvement to property and until receipt by the Architectural Review Board may postpone review of any materials submitted for approval.

5.05 **Criteria for Approval.** The Architectural Review Board shall approve any proposed improvement to property only if it deems in its reasonable discretion that the improvement to the property in the location indicated will not be detrimental to the appearance of the surrounding areas of the development as a whole; that the appearance of the proposed improvement to property will be in harmony with the surrounding area; that the improvement will not detract from the beauty, wholesomeness, and attractiveness and the enjoyment thereof by Owners; and that the upkeep and maintenance of the proposed improvement to property will not become a burden on the Community Association. The Architectural Review Board may condition its approval of any proposed improvement to property upon the making of such changes therein as the Architectural Review Board may deem appropriate.

5.06 **Architectural Review Board Guidelines or Rules.** The Architectural Review Board shall issue guidelines or rules relating to the procedures, materials to be submitted and additional factors which will be taken into consideration in connection with the approval of any proposed improvement to property.

5.07 **Architectural Review Fees.** The Architectural Review Board may, in its guidelines or rules, provide for payment of fees to accompany each request for approval of any proposed improvement to property. The Architectural Review Board may provide that the amount of such fees shall be uniform for similar types of any proposed improvement to property, or the fees may be determined in any other reasonable manner, such as based upon the reasonable cost of the proposed improvement to property.

5.08 **Decision of Architectural Review Board.** The Architectural Review Board shall make a decision regarding approval or disapproval of all or part of the plans submitted by an Applicant within fifteen (15) days after receipt of all required materials. The decision shall be in writing and, if the decision is not to approve a proposed improvement to property, the reason therefore shall be stated. The decision of the Architectural Review Board shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Architectural Review Board.

5.09 **Failure of Architectural Review Board to Act on Plans.** Any request for approval of a proposed improvement to property shall be deemed approved as proposed, unless disapproval or a request for additional information or materials is transmitted to the applicant by the Architectural Review Board within fifteen (15) days after the date of receipt by the Architectural Review Board of all required materials.

5.10 **Notice of Completion.** Promptly upon completion of the improvement to property, the applicant shall give written notice of completion to the Architectural

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Review Board and, for all purposes hereunder, the date of receipt of such notice of completion by the Architectural Review Board.

5.11 **Inspection of Work.** The Architectural Review Board or its duly authorized representative shall have the right to inspect any improvement to property prior to or after completion, provided that the right of inspection shall terminate after thirty (30) days after the Architectural Review Board received a notice of completion from the applicant.

5.12 **Notice of Noncompliance.** If, as a result of inspections or otherwise, the Architectural Review Board finds that any improvement to property has been done without obtaining the approval of the Architectural Review Board or was not done in substantial compliance with the description and materials furnished by the Applicant to the Architectural Review Board or was not completed within one year after the date of approval by the Architectural Review Board, the Architectural Review Board shall notify the applicant in writing of the noncompliance which notice shall be given, in any event, within fifteen (15) days after the Architectural Review Board receives a notice of completion from the applicant. The notice shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance.

5.13 **Failure of Architectural Review Board to Act After Completion.** If, for any reason other than the Applicant's act of neglect, the Architectural Review Board fails to notify the Applicant of any noncompliance within fifteen (15) days after the receipt by the Architectural Review Board of written notice of completion from the Applicant, the improvement to property shall be deemed in compliance if the improvements to property was, in fact, completed as of the date of notice of completion.

5.14 **Correction of Noncompliance**. If the Architectural Review Board determines that a noncompliance exists, the applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of the notice of such ruling of noncompliance sent by the Architectural Review Board to the Applicant. If the Applicant does not comply with the Architectural Review Board's ruling within such period, the matter may be referred to the Association's board of directors, and the Association may, in its discretion, record a notice of noncompliance against the real property on which the noncompliance exists, may institute legal action to allow it to remove the noncomplying improvement, or may otherwise remedy the noncompliance, and the Applicant shall reimburse the Association, upon demand, for all expenses occurred therewith. If the Applicant or owner does not promptly repay such expenses to the Association, the Association may levy a reimbursement assessment against the owner for such costs and expenses. The right of the Association to remedy or remove any noncompliance shall be in addition to all other rights and remedies, which the Association may have at law, in equity, under the Act or under this Declaration.

5.15 **No Implied Waiver of Estoppels.** No action or failure to act by the

Architectural Review Board or by the Association shall constitute a waiver of estoppels with respect to future action by the Architectural Review Board or the Association with respect to any improvement to property. Specifically, the approval by the Architectural Review Board of any improvement to property shall not constitute approval of, or obligate the Architectural Review Board to approve, any similar proposals, plans, specifications or other materials submitted with respect to any other proposed improvement.

5.16 **Architectural Review Board Power to Grant Variances.** The Architectural Review Board may authorize variances from compliance with any of the provisions of this Declaration or any Supplemental Declaration, including restrictions upon height, size, floor area or placement of structures or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the Architectural Review Board. If any such variance is granted, no violation of the provisions of this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration or any Supplemental Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall the granting of a variance affect in any way the owner's obligation to comply with all governmental laws and regulations affecting the Property concerned, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental authority having jurisdiction.

5.17 **Compensation of Members.** Members of the Architectural Review Board may receive no compensation for services rendered, except for its professional members, who shall be reasonably compensated for their services. All members may receive reimbursement of out of pocket expenses incurred by them in the performance of their duties hereunder.

5.18 **Meetings of Architectural Review Board.** The Architectural Review Board shall meet from time to time as necessary to perform its duties hereunder. The Architectural Review Board may, from time to time, by resolution in writing adopted by a majority of the members, designate a Architectural Review Board Representative (who may, but not need be, one of its members) to take any action or perform any duties for or on behalf of the Architectural Review Board, except granting of approval to any improvement to property and granting of variances. The action of such Architectural Review Board Representative or the written consent or the vote of a majority of the members of the Architectural Review Board shall constitute action of the Architectural Review Board.

5.19 **Records of Actions.** The Architectural Review Board shall report in

writing to the Association's Board of Directors all final actions of the Architectural Review Board and the Architectural Review Board shall keep a permanent record of such reported actions.

5.20 **Estoppel Certificates.** The Association shall, upon the reasonable request of any interested party and after confirming any necessary facts with the Architectural Review Board, furnish a certificate with respect to the approval or disapproval of any improvement to property or with respect to whether any improvement to property was made in compliance herewith. Any person without actual notice to the contrary shall be entitled to rely on said certificate with respect to all matters set forth therein.

5.21 **Nonliability for Architectural Review Board Action.** None of the Architectural Review Board, any member of the Architectural Review Board, any Architectural Review Board Representative, the Association, any member of the Association's Board of Directors or Developer shall be liable for any loss, damage or injury arising out of or in any way connected with the performance of the duties of the Architectural Review Board unless due to the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the Architectural Review Board shall not be responsible for reviewing, nor shall its approval of an improvement to property be deemed approval of, the improvement to property from the standpoint of safety, whether structural or otherwise, or conformance with the building codes or other governmental laws or regulations. To the fullest extent provided by law the Association shall indemnify and hold harmless all members of the Architectural Review Board except for misconduct determined by a court of law to be willful or conducted in bad faith.

ARTICLE VI-THE ASSOCIATION

6.01 **Articles of Incorporation and Bylaws.** The interests of all Lot owners shall be governed and administered by the Articles of Incorporation and Bylaws of Hidden Valley Estates and by this Declaration. In the event of a conflict between the provisions of this Declaration and the Articles of Incorporation and Bylaws of the Association, the terms of this Declaration shall be controlling.

6.02 **Membership.** Each owner of a Lot, upon becoming an owner, shall be a member of the Association and shall remain a member for the period of his ownership.

6.03 **Examination of Books by First Mortgagees.** The holder of any recorded first mortgage or deed of trust on a Lot in the Subdivision will, upon request, be entitled to:

6.03.1 Inspect the books and records of the Association during normal business hours.

6.03.2 Receive an annual statement of the Association within ninety (90) days following the end of each fiscal year of the Association; and

6.03.3 Written notice of all meetings of the Association and shall

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be permitted to designated a representative to attend all such meetings

6.04 **Powers.** The Association shall be granted all of the powers necessary to govern, manage, maintain, repair, administer, and regulate the Common Areas and Roads, and to perform all of the duties required of it. Notwithstanding the above, unless at least seventy-five percent (75%) of the first mortgages of Lots (based upon one vote for each first mortgage owned or held) have given their prior, written approval, the Association shall not be empowered or entitled to:

6.04.1 By act or omission, seek to abandon or terminate the Declaration except that this Declaration cannot be terminated without the approval of Larimer County.

6.04.2 By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas except as provided in the Development Agreement for Hidden Valley Estates R.L.U.P.

6.04.3 Use hazard insurance proceeds for loss to the Common Areas improvements for other than repair, replacement, or reconstruction of such improvements.

6.05 **Common Areas Maintenance and Operation.** The maintenance and operation of the Common Areas shall be the responsibility and the expense of the Association, and the costs therefore shall be a common expense of all the Lot owners. PROVIDED, HOWEVER, that in areas designated on the recorded plats of Hidden Valley Estates R.L.U.P for such uses and upon written approval of two thirds of the then Lot Owners, with one such approval allowed for each Lot then owned, the Association may to the extent not otherwise legally prohibited, create common recreation facilities such as equestrian, tennis, swimming, and athletic fields contained in the appropriate recreational envelope as platted on Residual Lot A. The terms of the approval may provide for common use by all with the costs and expenses shared by all; or providing for the use of only participating Residential Lot Owners with the costs and expenses allocated only to such participating Residential Lot Owners.

6.06 **Failure to maintain.** In the event that the Homeowners' Association shall fail to maintain the Common Areas and the Roads, which it is obligated to maintain in a reasonable condition in accordance with the Final Plans and Drawings as approved by Larimer County, the Larimer County Board of County Commissioners may serve written notice upon the Homeowners' Association or upon the residents of the subdivision setting forth the manner in which the Owners have failed to maintain the Common Areas and the Roads in a reasonable condition and said notice shall include a demand that such deficiencies of maintenance be cured within 30 days, and shall set the date and place of a hearing thereon, which shall take place within 14 days of the notice. At such hearing, the County may modify the terms of its original notice as to the deficiencies, and may give an extension of time within which they shall be cured. If the deficiencies set forth in the

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original notice or the modification thereof are not cured in order to preserve the taxable value of the property contained within the subdivision, and to prevent the Common Areas and the Roads from becoming a nuisance and public liability, the County may undertake to maintain the same for a period of one year. Before the expiration of said year, the County, upon its own initiative or upon written request of the Association shall call a public hearing upon such notice to such corporation and to the residents of the subdivision involved, to be held by the Board of County Commissioners, at which the Association shall show cause why such maintenance by the County shall not, at the election of the County, continue for a succeeding year. If the Board of County Commissioners shall determine that the Association is ready and able to maintain the Common Areas and the Roads in a reasonable condition, the County shall cease to maintain said Common Areas and Roads at the end of said year. If the Board of County Commissioners determines that the Association is not ready and able to maintain the Common Areas and Roads in a reasonable condition, the County may, at its discretion, continue to maintain the Common Areas and Roads during the next succeeding year, subject to a similar hearing and determination in each year thereafter. In the event the Subdivision is ever annexed into a municipality, the municipality shall succeed to the rights of the County hereunder.

6.07 **Common Areas Additions, Alterations, or Improvements-Limitations.** There shall be no additions, alterations, or improvements of or to the Common Areas by the Association requiring an assessment in excess of Five Hundred Dollars ($500) per Lot in any one calendar year without the prior, written approval of a majority of the members of the Association voting in accordance with the quorum and voting provisions of the Bylaws of the Association, at a special or regular meeting of the Association members. Such expenditure(s) shall be a common expense. PROVIDED, HOWEVER, that expenditure(s) relative to facilities approved under Section 6.05 for use and enjoyment of participating Lot Owners shall not be included in determining such limitation on assessments. For additions, alterations, or improvements to participating Lot Owner facilities, prior, written approval of a majority of the Lot Owners on a per Lot basis shall be required and such assessment shall apply only to said Owners.

6.08 **Formula for Determining Assessments.** Declarant shall pay all common expenses through December 31, 2005. Commencing for calendar year 2006 and subsequent years, assessments shall be made no less frequently than annually and shall be based upon a budget adopted no less frequently than annually by the Association. Except for expenses relating only to participating Lot Owners and covered in Section 6.05, which shall be allocated as set forth by their agreements under Section 6.05 and 6.07, the expenses of the Association shall be deemed common expenses and the assessments shall be based upon the total number of Lots subject to this Declaration within the Subdivision as of October 1 of the year preceding the year for which the assessment is made. The owners of each Lot on which a Certificate of Occupancy has been issued for a residence by October 1 of such preceding year shall pay assessments that are double the assessments for Lots on which no such completed residence exists as

of said date. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment.

6.09 **Based Upon Budget.** Assessments shall be based upon the budget which shall be established by the Board of Directors at least annually, which budget shall be based upon the cash requirements deemed to be such aggregate sum as the Board of Directors of the Association shall from time to time determine is to be paid by all of the Lot owners to provide for the payment of all expenses growing out of or connected with the maintenance, repair, operation, additions, alterations and improvements of and to the Common Areas, which sum may include, but not be limited to, expenses of management; taxes and special assessments unless separately assessed; premiums for insurance, landscaping and care of grounds; common lighting and heating; repairs and renovations; wages; common water and sewer changes; legal and accounting fees; management fees; expenses and liabilities incurred by the Association or any of its agents or employees on behalf of the Lot owners under or by reason of this Declaration and the Articles of Incorporation and Bylaws of the Association; for any deficit remaining from a previous period; for the creation of reasonable contingency reserve, working capital and sinking funds as well as other costs and expenses relating to the Common Areas; and for maintaining a reserve fund for replacement of common areas, which shall be funded by regular monthly payments rather than special assessments. The Association shall comply with the requirements of Section 38-33.3-303(4) of the Colorado Common Interest Ownership Act, relative to the proposal and adoption of such budget.

6.10 **Assessments for Other Charges.** The Association shall have the right to charge Lot owners for special services provided by the Association to such owner including, but not limited to, those matters set forth in Section 3.04, 3.05, and 3.06 of this Declaration. That is, such services shall be deemed to have been provided for the exclusive benefit of such Lot owners under Section 38-33.3-315(3)(b) of the Act. The Association shall also have the right to charge a Lot owner for any common expense caused by the misconduct of such Lot owner, in which event such expense may be assessed exclusively against such owner. The Association shall have the right to impose a lien for any such special service charges or charges due to misconduct that are not paid when due; said lien shall include court costs and reasonable attorneys' fees incurred by the Association in collecting said charges.

6.11 **No Other Common Area Liens**. No additional liens, other than mechanics liens, assessment liens or tax liens, may be obtained against the Common Areas, and no other assessments, debts or other obligations are assumed by Lot owners, other than as set forth herein and as provided in the Development Agreement.

6.12 **Assessments.** The amount of the common expenses and special service and misconduct charges assessed against each Lot shall be the personal and individual debt of the owner thereof. No owner may exempt himself from liability for contribution towards the common expenses by waiver of the use or enjoyment of any of the Common Areas or by abandonment of his Lot. The Association shall have the authority to take

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prompt action to collect any unpaid assessment or special service charge which remains unpaid for more than thirty (30) days from the due date for payment thereof. In the event of default in the payment of a special service charge or assessment, the Lot owner shall be obligated to pay interest at the rate of eighteen percent (18%) per annum on the amount of the assessment from due date thereof, together with all expenses, including attorneys' fees, incurred together with such late charges as are provided by the Bylaws or Rules of the Association. Suit to recover a money judgment for unpaid special service charges or assessments shall be maintainable without foreclosing the lien described in Section 6.14 below and such suit shall not be or construed to be a waiver of lien.

6.13 **Transfer Fee.** Declarant hereby declares that a transfer fee in the amount of one quarter of one percent (.25%) of the purchase price, which purchase price shall include any and all improvements located thereon at the time of such transfer, of EACH transferred Home Site (the "Transfer Fee"), shall be assessed against the TRANSFEREE each time the fee simple interest in the Home Site, including any and all improvements located thereon at the time of such transfer, is conveyed to a new owner (AND TRANSFEREE).

6.13.1 The transfer fee shall not take effect until a given lot is transferred from its second to third owner. That transfer shall be subject to the transfer fee, and all subsequent transfers of ownership for that given lot shall be subject to the transfer fee. It is intended that for purposes of this covenant, the developer shall not be counted as the first owner.

6.13.2 The Transfer Fee shall be paid to Colorado Open Lands by the transferee in cash, certified funds, wire transfer or other funds available for immediate withdrawal ("Good Funds") at the time the transferee acquires a fee simple interest in the Home Site from the previous owner thereof. The Transfer Fee shall be paid each and every time that a fee simple interest in the Home Site is transferred to a new owner.

6.13.3 The Transfer Fees shall be used by Colorado Open Lands for any purpose consistent with their Mission Statement, as the same may be revised from time to time.

6.13.4 The current owner of a Home Site shall at least ten (10) days prior to transferring a fee simple interest in the Home Site to a new owner notify Colorado Open Lands in writing that the current owner is transferring the Home Site to a new owner. The notice shall be in the form described below in subsection 6.13.7.

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6.13.5 This transfer fee shall constitute a burden on each of the Home Sites and shall run with and be binding upon all future owners of the Home Sites.

6.13.6 The transfer fee agreement outlined in section 6.13 and its subsections may only be amended by a written amendment signed by both the Declarant and Colorado Open Lands, and recorded in the real property records of Larimer County, Colorado.

6.13.7 Any notice required or permitted by this Declaration shall be given by personal delivery, nationally recognized overnight courier, or U.S. Mail, certified, return receipt requested, postage pre-paid and addressed as follows:

Colorado Open Lands
274 Union Blvd., Suite 320
Lakewood, Colorado 80228

6.14 **Notice of Lien.** All sums assessed but unpaid for the share of common expenses chargeable to any Lot and all sums for special services provided by the Association and charges due to misconduct that are not paid when due shall constitute the basis for a lien on such Lot superior to all other liens and encumbrances, except only for tax and special assessment liens on the Lot in favor of any governmental assessing entity, and all sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrances. To evidence such lien, the Association shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of the accrued interest and late charges thereon, the name of the owner of the Lot and a description of the Lot. Such notice of lien shall be signed by one of the officers of the Association on behalf of the Association and shall be recorded in the office of the County Clerk and Recorder of Larimer County, Colorado. Such lien shall attach and be effective from the due date of the assessment until all sums, with interest and other charges thereon shall have been paid in full.

6.15 **Enforcement of Lien.** Such lien may be enforced by the foreclosure of the defaulting owner's Lot by the Association in like manner as a mortgage on real property upon the recording of the above notice of lien. In any such proceedings, the owner shall be required to pay the costs, expenses and attorneys' fees incurred for filing the lien, and in the event of foreclosure proceedings, all additional costs, all expenses and reasonably attorneys' fees incurred. The owner of the Lot being foreclosed shall be required to pay to the Association any assessment or special service charge whose payment becomes due for the Lot during the period of foreclosure, and the Association shall be entitled to a receiver during foreclosure. The Association shall have the power to bid on the Lot at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same upon acquiring title to such Lot.

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6.16 **Report of Default.** The Association, upon request, shall report in writing to first mortgagees of a Lot any default in the performance by any Lot mortgagor of any obligation under the Declaration which is not cured within sixty (60) days.

6.17 **Release of Lien.** The recorded lien may be released by recording a Release of Lien signed by an officer of the Association on behalf of the Association.

6.18 **Lien Subordinate to First Mortgage - Limitations**. The lien for special service charges and assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust now hereafter placed upon the Lot subject to assessment; PROVIDED, HOWEVER, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer and which cause such Lot and grantee there under to be relieved of liability for such prior assessments but shall not relieve such Lot or grantee from liability from any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

6.19 **First Mortgage Foreclosure**. Notwithstanding any of the terms or provisions of this Declaration, in the event of any default on the part of an owner under any first mortgage or first deed of trust which entitles the holder thereof to foreclose the same, any sale under such foreclosure, including the delivery of a deed in lieu of such first mortgagee, shall be made free and clear of all then due and owing assessments. No first mortgagee shall be liable for any unpaid common expense assessments accruing prior to the time such mortgagee receives a deed to a Lot.

6.20 **Joint Liability Upon Transfer.** Upon payment to the Association of a reasonable fee not to exceed Twenty-five Dollars ($25), and upon the written request of any owner or any mortgagee or prospective owner of a Lot, the Association shall issue a written statement setting forth the amount of the unpaid common expenses, if any, with respect to the subject Lot, the amount of the current monthly assessment and the date that such assessments becomes due, credit for any advanced payments of common assessments, for prepaid items, such as prepaid items, such as insurance premiums, but not including accumulated amounts for reserves or sinking funds, if any, which statements shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statements of indebtedness shall be complied with within twenty (20) days, all unpaid common expenses which become due prior to the date of making such requests shall be subordinate to the rights of the person requesting such statement and in the case of a grantee of such Lots, the grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for any unpaid assessments against said Lot. The provisions set forth in this Section 6.18 shall not apply to the initial sales and conveyances of the Lots made by Declarant, and such sales shall be free from all common expenses to the date of conveyance.

6.21 **Mortgages - Priority.** Each owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage or other security instrument. A first mortgage shall be one which has first and paramount priority under

applicable law. The owner of a Lot may create junior mortgages, liens or encumbrances on the following conditions: (1) that any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for unpaid assessments, and other obligations created by this Declaration, the Articles of Incorporation and the Bylaws of the Association; (2) that the mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgages premises, all of his right, title and interest in and to the proceeds under all insurable policies upon said premises held by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of the Association, and if such request is not granted, such release may be executed by the Association as an attorney-in-fact for such junior mortgage.

6.22 **Professional Management.** Professional management is anticipated for the Subdivision, and any agreement which may be entered into with regard to professional management or any other contract for providing of services by Declarant or Developer shall be for a term of not more than one (1) year and shall be terminable on thirty (30) days' written notice, without cause and without payment of a termination fee.

ARTICLE VII - GENERAL PROVISIONS

7.01 **Duration.** Subject to the provisions of Section 7.03 of this Article, this Declaration shall remain in full force and effect, shall run with the land and shall be binding on all persons having any interest in any Lot in the subdivision for a period of twenty (20) years from the date this Declaration is recorded and thereafter shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then-owners of Lots in the subdivision has been recorded agreeing to change or terminate the Declaration in whole or in part.

7.02 **Amendments.** This Declaration, or any portion thereof, may be amended or revoked at any time by an instrument in writing signed by the owners of at least seventy-five percent (75%) of the Lots in the subdivision and one hundred percent (100%) of the holders of recorded first mortgages or deeds of trust. Notwithstanding the above, the Association cannot be dissolved nor can any amendment which conflicts with the Development Agreement take effect without the consent of the Board of County Commissioners of Larimer County. Any amendment shall be effective only upon the recordation of the written amendment or ratification thereof containing the necessary signatures of Lot owners and encumbrance holders. No amendment to this Declaration may be made which conflicts with any of the laws of the State of Colorado, or ordinances of Larimer County or the Development Agreement for Hidden Valley Estates R.L.U.P. No amendment shall affect any rights of Declarant unless approved in advance by and consented to by Declarant in writing.

7.03 **Severability.** Any provision of this Declaration invalidated in any manner whatsoever shall not be deemed to impair or affect in any manner the validity,

enforcement or effect of the remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

7.04 **Disclaimer.** No claim or cause of action shall accrue in favor of any person in the event of the invalidity of any covenant or provision of this declaration or for the failure of the Architectural Review Board or Declarant to enforce any covenant or provision hereof. This Section 7.04 may be pleaded as a full bar to the maintenance of any such action or arbitration brought in violation of the provisions of this Article.

7.05 **Waiver.** NO provision contained in this Declaration shall be deemed to have abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may occur.

7.06 **Captions.** The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

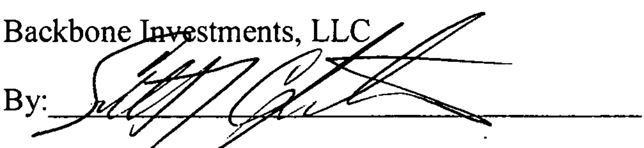
7.07 **Construction.** The use of the masculine gender in this Declaration shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to refer to the plural, and vice versa, when the context so requires it.

7.08 **Notices.** Notices required or permitted by this Declaration shall be made in writing. Notice to a member of the Association shall be sufficient if sent by United States mail, sufficient postage prepaid, to the latest address given by such member to the Secretary of the Association. In such event, notice shall be deemed effective three (3) days after such deposit into the United States mail. Notices may also be given by certified or registered mail, or by hand delivery. If hand delivered, notice shall be effective on the date that delivery is accomplished. If sent by registered or certified mail, notice shall be deemed effective three (3) days after deposit to the United States mail, sufficient postage prepaid.

IN WITNESS WHEREOF, the undersigned being Owners (or Mortgagees) of Lots in Hidden Valley Estates R. L. U. P. have executed this Declaration the date and year indicated below.

OWNER(S)/DEVELOPER:

Backbone Investments, LLC



By:______________________

Scott T. Charpentier, Managing Manager

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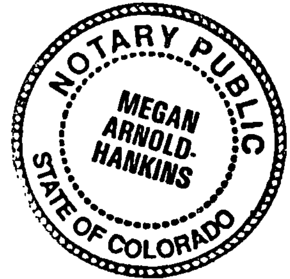
STATE OF COLORADO)
COUNTY OF LARIMER)

Acknowledged before me this 20 day of November, 2003 by Scott T. Charpentier, Managing Manager, Backbone Investments, LLC.

Notary Public

Witness my hand and official seal.

My commission expires: 2-23-2004



Owner Hidden Valley Estates R. L. U. P. Phase One lot One

By: Barbara C. Messmer
Barbara C. Messmer

Acknowledged before me this 20 day of November 2003 by Barbara C. Messmer

Notary Public

Witness my hand and official seal.

My commission expires: 2-23-2004

RATIFICATION AND APPROVAL

The undersigned lienholder herby approves and ratifies the foregoing Declaration of Covenants, Conditions and Restrictions for Hidden Valley Estates R.LU.P. II

By:____________________

STATE OF COLORADO)
COUNTY OF LARIMER)

Acknowledged before me this ___ day of November 2003 by ____________________.

____
Notary Public

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Witness my hand and official seal.

My commission expires:

To be Recorded with:

__________County Clerk and Recorders Office
_____________, Colorado

After recordation, please return to:

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EXHIBIT "A"

A TRACT OF LAND SITUATE IN SECTIONS 5, 8 AND 17, TOWNSHIP 5 NORTH, RANGE 69 WEST OF THE SIXTH P.M., COUNTY OF LARIMER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SAID SECTION 8, AND CONSIDERING THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 8 TO HAVE AN ASSUMED BEARING OF S01°30'12"E AS DETERMINED BY MONUMENTS FOUND AT THE CENTER QUARTER CORNER AND AT THE SOUTH QUARTER CORNER OF SAID SECTION 8, WITH ALL OTHER BEARINGS RELATIVE THERETO;

THENCE S00°06'42"W, 201.89 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 34;
THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING THREE COURSES:
1. N78°08'12"W, 56.77 FEET;
2. ALONG A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 5,773.75 FEET, AN ARC LENGTH OF 120.93 FEET, A CENTRAL ANGLE OF 01°12'00", AND A CHORD WHICH BEARS N78°44'12"W, 120.92 FEET;
3. N79°20'12"W, 223.81 FEET;
THENCE N31°09'27"W, 144.09 FEET;
THENCE S89°46'08"W, 545.03 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 34;
THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO COURSES:
1. N68°55'25"W, 171.30 FEET;
2. N85°25'11"W, 145.13 FEET TO A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 8;
THENCE ALONG SAID WEST LINE, N00°26'48"W, 1223.99 FEET TO THE SOUTHWEST SIXTEENTH CORNER OF SAID SECTION 8;
THENCE ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 8, N00°26'38"W, 1298.07 FEET TO THE WEST SIXTEENTH CORNER OF SAID SECTION 8;
THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 8, N00°49'02"W, 358.04 FEET;
THENCE S89°10'58"W, 339.89 FEET;
THENCE N00°49'02"W, 333.72 FEET;
THENCE S89°10'58"W, 230.20 FEET;
THENCE N00°49'02"W, 1,707.47 FEET;
THENCE N89°10'58"E, 570.08 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 8;
THENCE ALONG SAID WEST LINE, N00°49'02"W, 144.42 FEET TO THE WEST SIXTEENTH CORNER OF SECTIONS 5 AND 8;

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Exhibit "A" (con't)

THENCE ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 5, N01°38'14"E, 613.31 FEET;
THENCE S89°29'53"E, 1,246.33 FEET TO A POINT ON THE EAST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 5;
THENCE ALONG SAID EAST LINE, S02°13'42"W, 613.47 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 8;
THENCE ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 8, S01°30'14"E, 2,541.51 FEET TO THE CENTER QUARTER CORNER OF SAID SECTION 8;
THENCE ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 8, S01°30'12"E, 2,583.88 FEET TO THE POINT OF BEGINNING.

ALSO: A TRACT OF LAND LOCATED IN SAID SECTION 17; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 8, AND CONSIDERING THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 8 TO HAVE AN ASSUMED BEARING OF S01°30'12"E, WITH ALL OTHER BEARINGS RELATIVE THERETO;

THENCE S25°14'41"W, 306.19 FEET TO THE POINT OF BEGINNING;
THENCE S58°58'51"W, 30.77 FEET;
THENCE S51°28'51"W, 45.00 FEET;
THENCE S46°38'51"W, 73.00 FEET;
THENCE N31°16'09"W, 153.75 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 34;
THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 34 THE FOLLOWING TWO COURSES:
1. S79°12'44"E, 134.09 FEET;
2. ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 5,679.95 FEET, AN ARC LENGTH OF 63.94 FEET, A CENTRAL ANGLE OF 00°38'42", AND A CHORD WHICH BEARS S78°53'23"E, 63.94 FEET TO THE POINT OF BEGINNING.

EXCEPT a tract of land located in the West half of Section 8 and the Southwest Quarter of Section 5, Township 5 North, Range 69 West of the 6th P.M. County of Larimer, State of Colorado. More particularly described as follows:

Commening at the West Sixteenth Corner of Section 8, Township 5 North, Range 69 West and considering the West line to bear N00°49'02"W with all other bearings relative thereto;
Thence N00°49'02'W, 358.04 feet to the Point of Beginning.
Thence S89°10'58"W, 339.89 feet;
Thence N00°49'02'W, 333.72 feet;
Thence S89°10'58"W, 230.20 feet;
Thence N00°49'02"E, 1707.47 feet;

Exhibit "A" (con't)

Thence N89°10'58"E, 570.08 feet;
Thence S00°49'02"W, 2014.19 feet to the Point of Beginning. Said described land contains 1,086,829.15 sq.ft., 24.95 acres more or less.

SAID DESCRIBED TRACT CONTAINS 169.16 ACRES, MORE OR LESS AND IS SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY NOW ON RECORD OR EXISTING.

Also known as Lots 1-12 and Residual Lots A-D, Hidden Valley Estates II R.L.U.P. 02-S1948.