

DECLARATION OF PROTECTIVE COVENANTS  
OF  
EAST RIVER RANCHES

THIS DECLARATION AND AGREEMENT is executed the 9<sup>th</sup> Day of July  
1997, by Garland Properties, Inc., a Colorado corporation ("Declarant").

ARTICLE 1

STATEMENT OF PURPOSE OF DECLARATION

Section 1. Ownership of Property. Declarant is the owner of the real property situate in Gunnison County, Colorado, set forth on the Plat of East River Ranches, which was filed July 9, 1997, in the records of the Clerk and Recorder of Gunnison County, bearing Reception No. 476686, and the water rights described Exhibit A attached hereto.

Section 2. Declaration of Covenants. Declarant hereby makes, declares and establishes the following covenants, conditions, restrictions and easements which shall affect the Property. This Declaration of Protective Covenants shall run with the Property and shall be binding upon all persons and entities having any right, title or interest in and to the Property or any Lots, tracts or parts thereof, their heirs, successors and assigns and their tenants, employees, guests and invitees and shall inure to and be for the benefit of each Owner of a Lot within the Property.

Section 3. Statement of Purpose. This Declaration of Protective Covenants is imposed for the benefit of all Owners and future owners of Lots, parcels and areas located within the Property and to provide for the preservation of values of the Property and to provide and to establish the covenants, easements, restrictions, assessments and liens hereafter set forth, all of which are for the benefit of the Owners of Lots.

Section 4. Common Interest Community. Declarant further declares the Property to be a Planned Community under the Colorado Common Interest Ownership Act. The name of the Planned Community is the East River Ranches, and the Planned Community is located in Gunnison County, State of Colorado.

Section 5. Dedication. Declarant hereby dedicates the following roads on the Plat as private roads for the benefit of Lot Owners within East River Ranches to be operated, administered, and maintained by the Association: East River Ranch Road, Rainbow Road, Grizzly Trail, Sunset Road, and that portion of the South Ranch Road situated within Lot 6. (Declarant may similarly dedicate the remainder of the South Ranch Road within Development Rights 7-10 if Lots are created within those Development Rights.) Declarant dedicates the utility easements, the 40-foot river access easements, and the 20-foot utility

and pedestrian easement on Lot 6 to the use of the Lot Owners within East River Ranches pursuant to the terms, conditions, and provisions of this Declaration.

**ARTICLE 2**

**DEFINITIONS**

The following terms and words shall have the following definitions:

Section 1. "Allocated Interest" shall mean the allocated interest under CCIOA of each Lot (Unit) created in the Property and shall be one vote in the Association and a fraction of the Common Expense liability of the Association, which fraction has a numerator of one and a denominator consisting of the total number of Lots within the Property. If the number of Lots within the Property is changed, the Allocated Interest and Common Expense liability of each Lot shall automatically change in accordance with the above stated ratio or formula.

Section 2. "Architectural Review Board" means that Board described and authorized in Article 4.

Section 3. "Assessments" shall mean annual, periodic, special or default assessments levied pursuant to this Declaration to provide the funds required to meet the obligations of the Association.

Section 4. "Associate Member" shall mean an Associate Member of the Association as described in Article 15, Section 3.

Section 5. "Association" shall mean the homeowners' association that Declarant causes to be incorporated as a nonprofit Colorado corporation to administer and enforce this Declaration, or any successor corporation or entity charged with the duties and obligations set forth herein.

Section 6. "Association Documents" shall mean this Declaration of Protective Covenants, the Articles of Incorporation and Bylaws of the Association, any amendments thereto and any future design guidelines, rules and regulations, or policies adopted by the Association.

Section 7. "Barn" shall mean an accessory building designed to enclose livestock and to store agricultural products, feed, supplies and agricultural and livestock equipment and property and any incidental use associated therewith.

Section 8. "Board of Directors," "Executive Board," or "Board" are synonymous terms and shall mean the Board of Directors (Executive Board) of the Association duly elected or appointed and acting according to the Articles of Incorporation and Bylaws of the Association.

Section 9. "Building" shall mean a building or structure, or any similar type of improvement situate and located on a Lot or parcel of land within the Property.

Section 10. "Building Site" shall mean the Homesite set forth on the Plat within a Lot where a building or other improvement shall be located, subject to the prior written approval of the Board of Directors.

Section 11. "CCIOA" shall mean the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101 et seq.

Section 12. "Common Area" shall mean any real estate within East River Ranches other than a Lot, including any easements and interests on or appurtenant to the Property, owned or leased by the Association. Such real estate may include, without limitation, estates in fee, estates for a term of years, leasehold estates, or easements. Each Common Area may have a restricted use or enjoyment and may be designated for a specific use for such Common Area.

Section 13. "Common Expense" shall mean expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

Section 14. "Declaration" shall mean this Declaration of Protective Covenants, as it may from time to time be amended or supplemented.

Section 15. "Family Residence" shall mean the primary residence on any Lot designed for occupancy by the Owner of the Lot.

Section 16. "Garage" shall mean an accessory building or an accessory portion of a residence designed for the storage of one or more motor vehicles.

Section 17. "Guest House" shall mean a separate residence, attached to the family residence, designed for occupancy by the Lot owner's guests or caretaker.

Section 18. "Improvement" shall mean all buildings, structures, parking areas, loading areas, fences, walls, hedges, plantings, poles, driveways, ponds, lakes, recreational facilities, signs, decks, enclosures, changes in exterior color or shape, excavation, and all other site work including without limitation grading, road construction, utility improvements, removal of trees or plantings and any new exterior construction or exterior improvement constructed or completed on the Property.

Section 19. "Lot" shall mean a physical portion of the Property designated for separate ownership or occupancy, the boundaries of which are, or will be, set forth on the Plat, and which boundaries are incorporated into this Declaration by reference. A Lot is a "Unit" under CCIOA.

Section 20. "Maintenance Fund" shall mean the fund created by assessments and fees levied pursuant to this Declaration to provide the Association with funds it requires to carry out its duties hereunder.

Section 21. "Member" shall mean a member and an associate member of the Association.

Section 22. "Mortgage" shall mean any mortgage, deed of trust, or other document pledging a Lot or interest therein as security for the payment of indebtedness.

Section 23. "Occupant" shall mean a lessee or licensee of an Owner, or any other person or entity other than an Owner, in lawful possession of a Lot with the permission of the Owner.

Section 24. "Open Space" shall mean all of the Lot except for any building or structure located thereon and shall include, but is not limited to, lawns, gardens, walkways, sidewalks, parking areas, driveways and outdoor living or recreational space.

Section 25. "Owner" shall mean any person or entity that is the owner of title to any Lot within the Property, whether recorded or not, excluding any entity or person who holds such interest as security for the payment of an obligation, but including contract sellers and any mortgagee or other security holder in actual possession of a Unit.

Section 26. "Period of Declarant Control" shall mean that period described in Section 9 of Article 9.

Section 27. "Plat" shall mean the Plat of East River Ranches, which was filed July 9, 1997, in the records of the Clerk and Recorder of Gunnison County, bearing Reception No. 476685, and any revisions or amendments thereto.

Section 28. "Property" shall be that real property situate in Gunnison County, Colorado, set forth on the Plat, and the water rights described Exhibit A attached hereto.

### **ARTICLE 3**

#### **USE OF LOTS**

Section 1. Residential Use. All Lots shall be used exclusively for residential purposes. Each Lot shall have no more than one Family Residence, one attached Guest House, one attached or detached Garage, and one Barn. Such Family Residence, Guest House, Garage, and Barn shall be contained in no more than three (3) buildings. No additional Buildings shall be permitted. No more than one water well shall be installed on any Lot. No time-sharing shall be allowed. No leasing of the Property is allowed, except as permitted by Section 3 of this Article.

Section 2. Building Site. Any Family Residence, Guest House, Garage, and Barn shall be located entirely within the designated Building Site of the Lot. Upon the prior written approval of the Board, the Building Site may be relocated by the Owner of the Lot.

Section 3. Guest House. One Guest House, attached to the Family Residence, and containing not more than 1,000 square feet of gross residential floor area (GRFA) shall be allowed on each Lot.

The Guest House shall at all times be owned by the Owner of the Family Residence and the Lot upon which it is situate. Notwithstanding the prohibition against leasing in Section 1 of this Article, the Guest House may be rented or leased to a caretaker of the Family Residence and Lot. At no time shall a Guest House be used as the primary residence of a person or family other than the Owner, the caretaker, or their families.

Any Guest House shall only be served by and connected to the same water and sanitation facilities designed for and serving the Family Residence on the Lot and access to the Guest House shall only be by the same access driveway as provides access to the Family Residence.

The Gunnison County Land Use Resolution may require a Land Use Change Permit to construct a Guest House upon any Lot, particularly any guest house that does not qualify for a no impact classification under the Gunnison County Land Use Resolution.

Section 4. Barn. One barn with an appropriately fenced corral or corrals shall be allowed on each Lot. All corrals throughout the Property shall be constructed of wood or other materials approved by the Board in a style as approved by the Board. No wire fences shall be allowed except Lots 9 and 10, where wire perimeter fencing is allowed.

Section 5. Approval of Use. No Improvement shall be constructed on any Lot except only as approved by the Board of Directors.

Section 6. No Commercial Use. No commercial or business enterprise of any nature shall be allowed or permitted on any Lot; provided, however, that the Owner or Occupant of a Lot may conduct an in-home executive office, or an in-home occupation, artistic or literary activity so long as such in-home uses are subordinate to the residential character and use of the Lot and are limited to those activities that will cause no more than a negligible additional impact of traffic, sight or sound on the Property. Such use is subject to review by the Board, which shall retain the power to disapprove such use or to impose such conditions on such use as the Board deems necessary.

Section 7. No Perimeter Fencing. No Perimeter fencing shall be allowed on any of the Lots, except that if separate Lots are created from Development Rights 9 and 10, those Lots may have perimeter fencing upon approval by the Board.

Section 8. Rules and Regulations. The Board of Directors shall have the authority to promulgate and enforce Rules and Regulations and/or design guidelines regarding the Property and its use on condition that such rules and regulations and/or design guidelines are not inconsistent with this Declaration.

#### ARTICLE 4

### ARCHITECTURAL REVIEW AND APPROVAL

Section 1. Architectural Review Board. The Board of Directors of the Association shall be the Architectural Review Board.

Section 2. Review and Approval. No Family Residence, Guest House, Garage, Barn, Building, or other Improvement shall be commenced, constructed, erected, altered, taken apart or maintained upon any Lot, nor shall any landscaping, excavation or tree clearing be done, nor shall any exterior addition, change, painting, decoration or alteration be made, until the plans and specifications thereof have been submitted to and approved in writing by the Board in the manner hereafter set forth.

Section 3. Submittal Procedure. Prior to the commencement of any such work, complete plans shall be submitted to the Architectural Review Board for approval. The Board shall determine when a submission is complete. The submittal for approval shall include, at a minimum, the following documents:

3.1 A plot plan showing the location of any Buildings, or Improvements, landscaping, corrals, fences, access driveway, parking area, and any terrain or structure features, such as large rocks, trees, ponds, patios, fences, utility lines, storage areas, or decks.

3.2 Complete plans and specifications for the Buildings, including a roof plan, in sufficient detail to verify and confirm the size, type and dimensions of the Buildings, mass and height of the Buildings, all design features thereof, all exterior elevations showing all sides of the Buildings, all floor plans and the types of construction and materials. All foundations shall be stamped by a licensed engineer or architect.

3.3 Samples of the exterior materials and color schemes for the Buildings.

3.4 A detailed landscape, drainage and grading plan, including general topography.

Section 4. Purpose of review. The Board shall consider the suitability of the proposed Buildings or Improvements and in particular the harmony of the Buildings and Improvements with the environment, the effect of the Buildings or Improvements on the use and view of the Lot and surrounding Lots and property and the placement of the Buildings and Improvements with respect to topography, drainage, snow removal, ground



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elevations, existing natural and terrain features and the visibility of any structure from Colorado Highway 135. The Board shall also ensure compliance with Design Guidelines and rules and regulations.

Section 5. Hearing. The Board shall, within forty-five days of receiving an application for approval with all accompanying data, hold a hearing on such request, subject to Section 10 of Article 4. The Board may approve, disapprove, or approve with conditions any request submitted to it. The decision of the Board shall be in writing. In the event that the Board fails to take action within ten days after the date of the hearing, or fails to hold such hearing within forty-five days after receiving an application, the application shall be deemed to have been approved.

Section 6. Notice of Hearing. The Applicant, or any person on his behalf, may attend the hearing on the application for approval and submit information in support of the application. Notice of the hearing is not required to be given to Members of the Association; however, Members shall have the right to be present at the hearing or to submit written comments.

Section 7. Quorum. A majority of the Board shall constitute a quorum and all decisions of the Board shall be by a majority vote of the directors present. Board Members may attend such hearings by telephone.

Section 8. Final Decision. The decision of the Board shall be final, subject only to the right of judicial review as provided by the laws of the State of Colorado. The Board shall indicate in the event of denial, the reasons why the application was denied and grant to the applicant an opportunity to resubmit with the revisions and corrections that would bring the application into conformity with the requirements of the Board and Association Documents.

Section 9. Rules and Regulations. The Board may adopt such design guidelines and rules and regulations which are consistent with this Declaration as it deems appropriate to govern its proceedings and the use of Lots.

Section 10. Application Fee. A reasonable application fee may be required for any approval request. If the Board deems it appropriate to incur any professional or other expense in connection with an application, the Owner of the Lot to which the application pertains shall be obligated to pay such expense prior to the Board's decision on the Owner's application.

Section 11. Building and Other Permits. In addition to the requirement for approval by the Board, each owner is responsible for obtaining all approvals, licenses, and permits as may be required by Gunnison county, Colorado and any other entity or district having jurisdiction over the Lot prior to the commencement of construction. Although construction of a residence of a Lot typically is classified as "no impact," a Gunnison County Land Use

Change Permit may be required for improvements to be constructed on Lots within East River Ranches.

## ARTICLE 5

### DESIGN REQUIREMENTS

Section 1. Design Requirements. Any Family Residence, Guest House, Garage, Barn, Building, or Improvement on any Lot shall comply with the design requirements of this Article and of all design guidelines which may be adopted by the Board.

Section 2. Building Site. Any Building or Improvement shall be constructed entirely within the designated Building Site for the Lot, if such a site is so designated and identified, except that the Board may grant a variance for improvements pursuant to Section 3 of this Article.

Section 3. Variances. The Board may allow for a variance for Improvements to be located outside the designated Building Site if there is a significant justification for locating the Improvement outside the Building Site, and it is infeasible to locate the Improvement within the Building Site.

Section 4. Setback. Except as otherwise approved by the Board, Buildings shall be set back from any Lot line at least 150 feet, unless any part of a designated Building Site is closer than 150 feet to a Lot line, where construction within the Building Site shall be allowed. The Board shall have discretion to increase or decrease the setback for good cause.

Section 5. Uniform Building Code. All Buildings and Improvements shall meet all of the requirements, including fire protection standards, of the Uniform Building Code, and all other applicable codes, rules, and regulations.

Section 6. Minimum Floor Area. The gross residential floor area (GRFA), determined in the manner provided by the Uniform Building Code, shall not be less than 2,500 square feet for any Family Residence. If any Lots are created out of Development Rights 7-10 that are less than 35 acres in size, the minimum size of Family Residence may be reduced to 2,000 square feet if stated in the Declaration Amendment creating those Lots.

Section 7. Maximum Floor Area. The maximum gross floor area of all Buildings on a Lot, determined in the manner provided by the Uniform Building Code, shall not exceed 10,000 square feet in the aggregate. Floor area of each building shall be limited to the following:



Building Type

Maximum Floor Area of Building

Family Residence	8,000 square feet
Guest House	1,000 square feet
Garage	1,000 square feet
Barn	1,500 square feet

Section 8. Height. No building shall be higher than 2 stories above grade. The maximum height of any Building shall be 35 feet. The height of a Building for the purpose of this Section shall be measured from the lowest point where grade meets the foundation to the highest point of the roof, as determined by the Board.

Section 9. Roofs. Roof material and design shall be approved by the Board. Any metal roof must have a dark, non-reflective color finish approved by the Board.

Section 10. Garages: All family residences shall include, at a minimum, an attached and enclosed two-car garage with garage doors.

Section 11. Exterior Building Material and Style. All Buildings shall be built in an exterior style and with colors and materials harmonious to the area and similar in style, color, and materials to like Buildings in existence in the surrounding areas. No exterior walls shall consist of sheet metal, metal material, T-111 or any similar material, composition shingles or unplastered cement or similar block. All colors of exterior walls and roofs shall be natural or earth tone colors (including dark or forest greens but excluding light blues) to blend with the natural surrounding, except that colored trim may be allowed upon approval of the Board.

Section 12. Service or Utility Areas. All service or utility areas or yards and including garbage cans, natural gas tanks and trash storage areas shall be screened from view on all sides and protected from bears, wildlife, and other animals.

Section 13. Exterior Lighting. All exterior lighting shall be designed and directed in a manner approved by the Board. All exterior lighting or illumination on any Lot shall be so located, placed, shielded and designed to be architecturally and aesthetically keeping with the Buildings and surroundings and to have minimum visual impact on any other Lot or any nearby land. No unsheathed exterior lighting shall be allowed. No mercury vapor or similar lighting shall be allowed.

Section 14. Antennae. No exterior radio, television, microwave, or other antennae or antennae dish or signal capture or distribution device shall be permitted or installed on any Lot unless it is screened from view and approved by the Board. Such screening shall be in keeping with the terrain and environment.

Section 15. Wood Burning Devices. The maximum number of woodburning devices per Lot shall be three. Such wood burning devices shall be designed to reduce



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polluting emissions and shall comply with all applicable rules and regulations of Gunnison County.

Section 16. Water Sprinkler Systems. It may be required that all residential Buildings situate upon the Property have installed and maintained water or chemical sprinkler systems of a type and design, including water capacity and water pressure, sufficient for fire protection of the Building, or other type of fire protection as required by the local fire protection district.

Section 17. Stock Drive Easements. No Building or other Improvement shall be constructed within any stock drive easement.

## **ARTICLE 6**

### **CONSTRUCTION AND MAINTENANCE REQUIREMENTS**

Section 1. Excavation. No excavation shall be made on any Lot, except in connection with a building approved in accordance with this Declaration of Protective Covenants. The Board, however, may approve excavations for approved improvements that have a significant justification and improve and enhance the Property (e.g., ponds).

Section 2. Electrical and Telephone Service. All electrical and telephone service shall be installed underground.

Section 3. Water and Sewage Disposal Systems. All Buildings designed for human occupancy shall be connected with individual water and sanitation facilities. All individual water systems and sewage disposal systems shall be constructed, installed, and maintained in compliance with all applicable rules and regulations of any governmental entity having jurisdiction over the Property. All sewage disposal systems shall comply with all applicable rules and regulations of Gunnison County and the State of Colorado.

Section 4. Signs. No sign of any kind shall be displayed on any Lot, except only a sign not to exceed four square feet identifying the Owner and/or address of the Lot, or a sign, not to exceed four square feet, advertising the property for sale. For Sale signs shall be of uniform design as approved by the Architectural Review Board.

Section 5. Drainage. No Owner shall do or permit any work, construct any improvements or do any landscaping which shall alter or interfere with the natural drainage for the Property, except to the extent the same is approved by the Architectural Review Board and as authorized by any surface water discharge easement.

Section 6. Temporary Structures. No temporary structure, mobile home, modular home, trailer house, travel trailer or R.V. vehicle shall be permitted on any Lot, except only as may be determined to be necessary during the period of construction of the Family Residence and as specifically approved by the Board.

Section 7. Continuity of Construction. All construction, reconstruction, alterations, or improvements shall be prosecuted diligently to completion and shall be completed within twelve months of the commencement thereof, unless an exception is granted by the Board for good cause.

Section 8. Landscaping. The Lot and all landscaping thereon shall be maintained in general in its natural condition, subject to Board approval. Lawns and artificial landscaping shall be minimal and in no event shall an irrigated lawn and garden exceed 2,500 square feet. A minimum of 120 vertical feet of trees shall be planted upon completion of construction and prior to receipt of certificate of occupancy. The Board may permit a delay in compliance with the above provision due to weather or other extenuating circumstances. No trees shall be cut or removed from any Lot except only (1) as required to permit ingress and egress to and from the Building Site; (2) to clear the actual construction site for any Family Residence, Guest House, Garage, or Barn; (3) to remove any diseased or dead trees; (4) to remove any tree that poses a danger to any Building; or (5) for any recreational or other easement.

Section 9. Trash. No trash, ashes, garbage, or other refuse shall be allowed to accumulate or be placed on any Lot or area within the Property. There shall be no burning, burying or other disposal of refuse out of doors. Each Owner shall provide suitable receptacles for the temporary storage and collection of such refuse and all such receptacles shall be screened from the public view and from the wind and protected from bears, wildlife, and other animals, and other disturbance. All Lots shall at all times, including during construction, be maintained in a neat and attractive condition. All construction debris shall be stored within a dumpster or other comparable container or receptacle.

Section 10. Abandoned or Inoperable Vehicles. Abandoned or inoperable automobiles or motor vehicles of any kind, except as hereinafter provided, shall not be stored or parked on any Lot, except in a fully enclosed garage. "Abandoned or inoperable vehicle" shall be defined as any vehicle which has not been driven under its own power for a period of time one (1) month or longer, excluding vehicles parked by Owners while away from the Lot. A written notice describing the "abandoned or inoperable vehicle" and requesting removal thereof may be personally served upon the Owner or posted on the unused vehicle; and if such vehicle has not been removed within seventy-two (72) hours thereafter, the Association shall have the right to remove the same without liability to it, and the expense thereof shall be charged against the owner.

Section 11. Noise. No horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the improvements on any Lot, shall be placed or used on any Lot. Except for a brief warning bark when a person approaches the Lot, no dogs shall be allowed to bark, whine or otherwise make noise which disturbs those on nearby Lots.

Section 12. Nuisance. No activity that is obnoxious or offensive as determined by a reasonable and objective standard shall be carried on within the Property; nor shall anything be done or permitted which shall constitute a public nuisance. No noise or other nuisance shall be permitted upon the Property which is offensive or detrimental as determined by a reasonable and objective standard to any other part of the Property or its Owners or Occupants; provided, however, that this Section shall not apply to any reasonable, usual noise or other activity involving construction of any improvements approved by the Board of Directors.

Section 13. Hazardous Activities. No activities shall be allowed or conducted on the Property which are or might be reasonably considered to be unsafe or hazardous to any person or property. No outside open fires shall be permitted on any Lot unless contained within a cooking, barbeque unit, grill or fire pit.

Section 14. Fencing. No fences, walls or barriers shall be constructed, erected or maintained on any Lots except for corrals approved by the Architectural Review Board. The Association shall be responsible for the expense of maintaining that part of the perimeter fencing around the Property not maintained by the Owners of adjacent land. Perimeter fencing is allowed on Lots 9 and 10.

Section 15. Snowmobiles. Snowmobiles, snowcats, snow tractors or other similar motorized vehicles for travel over snow shall not be allowed, maintained, or operated upon the Property except only:

- 15.1 To set and maintain cross country ski courses.
- 15.2 For access to and from a residence during the winter months, not for use on a Lot (except on a driveway for access).
- 15.3 to access an area off the Property where snowmobiles are permitted.
- 15.4 Between 7 a.m. and 10 p.m.

Section 16. Motorcycles and All Terrain Vehicles. Motorcycles, all terrain vehicles, and other similar or noisy vehicles shall be used only:

- 16.1 For access to and from a residence.
- 16.2 On roads, not on Lots (except on driveways for access).
- 16.3 Between 7 a.m. and 10 p.m.

Section 17. Parking. All motor vehicle parking shall be in designated parking areas approved by the Architectural Review Board. Tractors, snowmobiles, motorcycles,

recreational vehicles, boats, trailers, and other similar vehicles shall be parked and/or stored within a fully enclosed garage at all times.

Section 18. Use of Roads. Any person using a road within the Property must be accompanied by a Member or Associate Member at all times, except to travel between Colorado Highway 135 and a Lot. No Member or Associate Member of the Association shall grant permission to use a road within the Property in violation of the provisions of this paragraph.

## ARTICLE 7

### FISHING

#### EAST RIVER

Section 1. All Owners shall have the right to access and fish the entire length of the East River that lies within the borders of the Property, except that Associate Members do not own, possess, or have the right to fish the East River or any other ponds, streams, or ditches on the Property. Declarant hereby dedicates a fishing easement within the Property for such purposes consisting of 50 feet from the high water side of either side of East River. Access easements to the East River are set forth on the Plat.

Section 2. Owners may give guests permission to fish the East River. All such guests, while fishing the Property, must be accompanied by such Owner giving permission. Physical presence of the Owner on any part of the Property shall be sufficient to meet this requirement. The Owner may not give more than two guests permission to fish the East River at any one time.

Section 3. Declarant hereby grants to Gary F. Garland, individually, and his immediate family, the right to fish and to give guests permission to fish the Property. Until such time as Declarant has sold and conveyed all Lots and all property designated as Development Right on the Plat, Gary F. Garland and his immediate family need not be present at the time guests are fishing. After Declarant has sold and conveyed all Lots and property designated as Development Right on the Plat, Gary F. Garland (or his immediate family) must be present at the time guests are fishing. This section limits Gary F. Garland and his immediate family to authorizing no more than two persons to fish the East River at any one time. Gary F. Garland and his immediate family shall not have the right to sell or transfer the above mentioned fishing rights to any other party, and those fishing rights shall last only for the lifetime of Gary F. Garland and his son, Nicholas Shane Garland. This right to fish shall include (but not exceed) the right to use the fishing, road, and access easements necessary to use the fishing right.

Section 4. Catch and release is encouraged, but not required.

PONDS, DITCHES, AND STREAMS

Section 5. All Owners shall have the right to access and fish any of the fishable ponds, ditches, and streams on the Property. A thirty-foot easement on the East River No. 2 Ditch is set forth on the Plat, in which fishing in that ditch is allowed. For all other fishable ponds, ditches, and streams on the Property, Declarant hereby dedicates a fishing easement within the Property for such purposes consisting of a 30 feet zone surrounding any such fishable ponds, ditches, and streams on the Property.

Section 6. Owners may give guests permission to fish the ponds, ditches, and streams on the Property. All such guests, while fishing the Property, must be accompanied by the Owner giving such permission. Physical presence of the Owner on any part of the Property shall be sufficient to meet this requirement. The owner may not give more than four persons permission to fish the ponds, ditches, and streams on the Property at any one time.

Section 7. Declarant hereby grants to Gary F. Garland, individually, and his immediate family, the right to fish and give permission for people to fish the ponds, ditches, and streams on the Property. Until November 1, 1998, there is no limit to the number of people Gary F. Garland and his immediate family may authorize to fish the ponds, ditches, and streams at any one time. After November 1, 1998, Gary F. Garland and his immediate family may authorize a maximum of four persons at any time to fish the ponds, ditches, and streams. Until such time as Declarant has sold and conveyed all Lots and all property designated as Development Right on the Plat, Gary F. Garland and his immediate family need not be present at the time guests are fishing. After Declarant has sold and conveyed all Lots and property designated as Development Right on the Plat, Gary F. Garland (or his immediate family) must be present at the time guests are fishing. Gary F. Garland and his immediate family shall not have the right to sell or transfer the above mentioned fishing rights to any other party, and those fishing rights shall last only for the lifetime of Gary F. Garland and his son, Nicholas Shane Garland. This right to fish shall include (but not exceed) the right to use the fishing, road, and access easements necessary to use the fishing right.

Section 8. Notwithstanding the above provisions of this Article 7, the Owner of any Lot of less than 35 acres in size created out of the Development Rights set forth on the Plat shall not have any of the fishing privileges, as set forth in this Article 7, north of the bridge and road right of way crossing the East River, as set forth on the Plat.

**ARTICLE 8**

**ANIMALS**

Section 1. Domestic Household Pets. No more than two domesticated household pets of the same species shall be allowed, kept or maintained on any Lot.

Section 2. Confinement of Animals. All animals shall be kept confined to the Owner's Lot or attached to a leash or other suitable control device at all times. The Owner of any animal and/or the Owner of any Lot which the animal is visiting or staying on shall at all times be personally liable and responsible for all actions of such animal and any damage caused by such animal.

Section 3. Horses. Up to two (2) horses shall be allowed on any Lot so long as such horses are kept within a fenced or enclosed area and such area is kept in a clean and sanitary condition at all times. Horses shall be kept only in a barn or corral. Barn stalls and corrals must be cleaned daily.

Section 4. Rules and Regulations. The Board of Directors may adopt suitable rules and regulations regarding animals and may in particular circumstances, for good cause, approve variances as to the number and type of animals to be allowed, kept or maintained on any Lot.

Section 5. Impoundment of Dogs. The Association is specifically empowered to impound any dog or cat running at large within the property. Upon impoundment, the owner of the dog or cat, if known shall be notified and the animal shall be taken to the nearest facility which accepts impounded dogs or cats. It is the duty of the owner of such dog or cat to recover the dog or cat from such facility and if the dog or cat is not recovered by the owner in accordance with the rules and regulations of such facility, the facility may destroy the dog or cat without liability.

## ARTICLE 9

### HOMEOWNERS' ASSOCIATION, INC.

Section 1. Government of Association. East River Ranches Homeowners' Association, Inc., a Colorado non-profit corporation, or similarly named Association, shall be governed by and shall exercise all of the duties, privileges and obligations set forth in this Declaration, and the Articles of Incorporation and Bylaws of the Association. The Association shall be managed by the (Board of Directors). The number of Directors of the Executive Board and the terms of the Directors shall be set forth in the Association's Articles of Incorporation or Bylaws. The Directors shall be elected by majority vote of the Members, except for those appointed by the Declarant as set forth in Section 9 of this Article.

Section 2. Members. Each Owner shall be a Member of the Association. No Owner, whether one or more persons or entities, shall have more than one membership per Lot owned by such Owner, but all persons owning each Lot shall be entitled to the rights of membership and the use and enjoyment appurtenant to the ownership of each Lot. Members may be classified as Associate Members.

Section 3. Termination of Membership. The right of membership in the Association and the status as a Member shall terminate upon the termination of ownership of Lot or land which is subject to this Declaration. Upon conveyance, sale or assignment of the Owner's interest, the selling Owner shall be relieved of liability for assessments levied from and after the date of such sale or conveyance; provided, however, that no such sale or conveyance of any ownership shall relieve an Owner of liability arising prior to the date of such sale or conveyance.

Section 4. Voting Rights. All Owners shall be Members or Associate Members of the Association. The Owner of each Lot, and each associate Member, shall be entitled to one vote in the Association. The one vote for each Lot shall be exercised by the Owner and, when more than one person or entity holds an interest in a Lot, the vote for the Lot shall be exercised as the Owners may determine among themselves, but the vote for the Lot shall be cast by only one person. Each Associate Member shall have the right to vote regarding matters in which such Associate Member has an interest, including elections to the Board of Directors of the Association. If any vote is taken affecting the rights and privileges of Owners of Lots of 35 acres or more, and if Declarant has created any Lots of less than 35 acres in size, the votes of the Members who are Owners of such Lots of less than 35 acres may not be counted unless there is unanimous consent of Owners of Lots of 35 acres or more.

Section 5. Compliance with Association Documents. Each Owner shall abide by and have the benefit of the provisions, covenants, conditions, and restrictions contained in the Association Documents, as they apply to the Owner's Lot or property and use of Association property and easements.

Section 6. Rules and Regulations. The Association shall from time to time adopt, amend, and repeal rules and regulations not inconsistent with this Declaration governing, among other things, and without limitation:

- 6.1 The use of any private road or street.
- 6.2 The use of any easements within the Property.
- 6.3 Standards for the care and maintenance of all improvements, grounds and landscaping of the Association or Members (non including Associate Members) within the Property, including private roads and streets.
- 6.4 The use, maintenance and enjoyment of any real property, private road, street or easement conveyed or dedicated to the Association.
- 6.5 Any other matter relating to East River Ranches or the use of any Member's (not including Associate Members) Lot or land subject to this Declaration or the Property not inconsistent with this Declaration.



Section 7. Grant of Utility and Access Easements. The Declarant hereby authorizes and empowers the Association as its attorney-in-fact to give and grant a utility easement for the installation, construction and maintenance of underground utilities over and across any road easement and at other locations designated on the Plat. The owner of each Lot, by virtue of such ownership, hereby authorizes and empowers the Association, as its attorney-in-fact, to give and grant a utility easement and right of way at any location necessary for the installation, construction and maintenance of underground utilities. Declarant dedicates the use of the road right of way as set forth on the Plat for use for utilities to serve the Lot Owners. The Association shall have the right and authority to convey to owners of property immediately contiguous to East River Ranches an easement for access and utilities over the roads within East River Ranches, except that no conveyance of access shall be granted on any road right of way crossing Lots 3 and 4 without the express written consent of the record Owners of Lots 3 and 4. If any such easement is conveyed within 10 years of the date of this Declaration, the Association shall pay 50% of the consideration given for the easement to Declarant or Gary F. Garland, individually.

Section 8. Road Maintenance and Dust Control. All roads within the Property shall be constructed in accordance with the road permits issued by Gunnison County, Colorado. Upon completion of construction of the roads, all maintenance, repairs, and snow plowing and supervision shall be the duty of and vested in the Association. The Association shall:

- 8.1 Be responsible for maintenance, repair and snowplowing of access road between Highway 135 and the Property as may be required in lieu of a negotiated agreement between the Association and the homeowner's association of Hidden River Ranch.
- 8.2 Keep in good repair all roads and entry feature within the Property and maintain the same in suitable condition for use by the Members of the Association and drivers of emergency vehicles.
- 8.3 Provide dust control not less than once a year on any road following the commencement of construction of any Building on a Lot served by such road and at any time that the use of any road within the Property is the cause of dust pollution, to provide dust control in the form of the use of magnesium chloride, oil treatment, or other suitable dust retardant.
- 8.4 Plow snow from the roads during the winter months as required for access to any Lot and the Property.
- 8.5 Develop in cooperation with the Gunnison County Weed Control Specialist (if not already done) and carry out the terms of an Earthmoving Site Revegetation and Noxious Weed Control Plan covering those disturbed areas of road construction.



Section 9. Period of Declarant Control. From the date of formation of the Association until the termination of Declarant's control as provided below, Declarant shall have the right to appoint and remove all members of the Executive Board, subject to the provisions in this Section. The time during which this right exists is the Period of Declarant Control. The Period of Declarant Control shall terminate upon the first to occur of: (a) sixty (60) days after conveyance of 75% of the Lots that may be created to Owners other than Declarant; (b) two (2) years after the last conveyance of a Lot by Declarant in the ordinary course of business; or (c) two years after any right to add new Lots was last exercised. Declarant may voluntarily surrender the right to appoint and remove the Directors of the Executive Board prior to the termination of the Period of Declarant Control. Not later than sixty (60) days after conveyance of 25% of the Lots that may be created to Owners other than Declarant, at least one Director and not less than 25% of the Directors of the Executive Board shall be elected by Members other than Declarant. Not later than sixty (60) days after the conveyance of 50% of the Lots that may be created to Owners other than Declarant, not less than 33 1/3% of the Directors of the Executive Board shall be elected by Members other than Declarant. Not later than the termination of the Period of Declarant's Control as provided above, the Members (including Declarant) shall elect an Executive Board of at least three Directors, at least a majority of whom must be Owners other than Declarant or designated representatives of Owners other than Declarant.

Section 10. Notice. The Association shall provide written notice of assessments and other matters requiring Member voting or action. The Association shall maintain a list of the current mailing address of all Owners of Lots within the Property. Owners are responsible for providing current mailing addresses to the Association. Notice shall be sufficient if (1) accomplished by personal delivery; (2) left at the Owner's residence with a member of the Owner's family who is over the age of 18; or (3) sent by U.S. Mail or overnight delivery to the Owner's mailing address on file with the Association. In the above cases, Notice shall be deemed given (1) at the date of delivery; (2) the date notice is left; or (3) the date of delivery if by overnight delivery or, if by U.S. Mail, three days after the notice is deposited with the Postal Service. Any notice required in the Articles of Incorporation or By-Laws shall be provided in the same manner as stated above. In genuine emergencies, notice need not be written and can be given by other reasonable methods suited to the nature of the emergency, such as telephone or facsimile.

**ARTICLE 10**

**ASSESSMENTS**

Section 1. Creation of Lien. Each Owner of any Lot, or any land subject to this Declaration by acceptance of a Deed therefor, whether or not it shall be so expressed in any Deed, is deemed to covenant and agree to pay to the Association all regular, special and default assessments or charges, all of which shall be fixed, established and collected as determined by the Association. The annual, special and default assessments, together with interest, costs and reasonable attorney's fees, shall be a charge and continuing lien upon the Lot or land against which each such assessment is made until paid. Each such

assessment, together with interest, costs and reasonable attorneys' fees, shall be the personal obligation of the Owner of such Lot or land at the time when the assessment became due.

All such assessments shall be adopted and assessed in the manner set forth in this Article 10.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used for the following:

- 2.1 The improvement, maintenance and repair of and snow removal from any road serving the Property.
- 2.2 The maintenance, repair, stocking, or improvement of rivers, ponds, irrigation ditches, water features, and other waterways within the Property.
- 2.3 The maintenance, repair, or other improvement required to be made by any Owner to any Improvement on any Lot which the Owner fails to do.
- 2.4 The operation of the Association in the performance of its duties.
- 2.5 Any other purpose approved by a majority vote of the members of the Association or by a two-thirds vote of the Board.

Section 3. Types of Assessments. The Board of Directors shall have the authority to levy the following types of assessments for the Association.

- 3.1 **Regular Assessments.** Assessments for the business and operation of the Association pertaining to all Members of the Association and to be apportioned and allocated equally among all Lots.
- 3.2 **Special Assessments.** Special assessments for the purpose of construction, improvement, repair, replacement, enlargement or other special purposes pertaining to a specific or special matter. Special assessments shall be apportioned and allocated equally among all Lots, unless such special assessment benefits substantially fewer than all Lots, in which event such special assessment shall be levied against only the Lots so benefitted. The Board shall have reasonable discretion in apportioning responsibility to pay special assessments.
- 3.3 **Road Assessments.** Assessments for the purpose of construction, improvement, repair, replacement of and/or snow removal from roads serving the Property. All regular assessments shall be apportioned and allocated equally among all Lots.

Section 4. Regular Assessments. Prior to the beginning of each fiscal year of the Association, the Board of Directors shall prepare and adopt a budget and determine, levy, and assess the Association's regular and road assessments for the following year.

Section 5. Special Assessments. In addition to the regular assessments set forth in Section 4 of this Article, the Board of Directors may levy in any fiscal year one or more special assessments. Notice of the amount and due dates for such special assessments shall be sent to each owner at least thirty days prior to the due date.

Section 6. Assessment for Each Lot. All regular assessments shall be apportioned and allocated equally among all Lots. All special assessment shall be apportioned and allocated equally among all Lots unless such special assessment benefits substantially fewer than all Lots, in which event such especial assessment shall be levied against only the Lots so benefitted. All road assessments shall be apportioned equally among all Lots and on a per homesite basis for lands owned by Associate Members or others that have the right to use the roads serving the Property.

Section 7. Default Assessments. Any expense of the Association which is the Obligation of an Owner or which is incurred by the Association on behalf of or because of an Owner, shall be a default assessment and shall become a lien against such owner's Lot and may thereafter be foreclosed or otherwise collected as provided herein. Notice of the amount and due date of such default assessment shall be sent to the Owner subject top such assessment at least thirty days prior to the due date.

Section 8. Nonpayment of Assessments. Any assessment, whether regular, or special, road, or default assessment, which is not paid within thirty days of its due date shall be deemed delinquent. In the event hat any assessment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

- 8.1 Assess a late charge of at least 10% of the amount due and owing per delinquency.
- 8.2 Assess an interest rate charge from the date of delinquency at 18% per year, or such other rate not contrary to law as shall be established by the Board of Directors.
- 8.3 Suspend the voting rights of the owner during any period of delinquency.
- 8.4 Bring an action against any Owner personally obligated to pay the delinquent assessment.
- 8.5 File a Statement of Lien with respect to the Lot and foreclose such lien in the manner hereafter set forth. The Association may file a Statement of Lien by recording with the Clerk and Record of Gunnison County, Colorado, a written statement with respect to the Lot, setting forth the name of the Owner, the

legal description of the Lot, the name of the Association and the amount of the delinquent assessments then owing, which Statement shall be signed and acknowledged by the President, Vice President, Secretary, attorney, manager, or other representative of the Association and which shall be sent by Certified mail, postage prepaid, to the Owner of the Lot at such addresses the Association may have in its records as to the owner. Ten days following the mailing of such Notice, the Association may proceed to record and foreclose the Statement of Lien in the same manner as provided for foreclosure of mortgages under the statutes of the State of Colorado. Such Statement of Lien shall secure all assessments accruing or assessed subsequent to the date of recording of such Statement of Lien until the same has been satisfied and released, together with the Association's attorneys' fees and costs incurred in the preparation and recording of such Statement of Lien and any release thereof. In any action for the payment or foreclosure of such assessment, the Association shall be entitled to recover as part of the action, the interest, costs, and reasonable attorneys' fees with respect to the action.

- 8.6 The Statement of Lien shall be superior to all other liens (except government tax liens) and encumbrances on such Lot, including, for one year's regular assessment, the lien of any Mortgage.
- 8.7 The provisions of this Section 8 shall also apply to the land owned by any Associate Member of the Association.

Section 9. Priority of Lien. A lien under this Article is prior to all other liens and encumbrances on a Lot except:

- 9.1 liens and encumbrances recorded before the recordation of this Declaration;
- 9.2 a security interest on the Lot which has priority over all other security interests on the Lot and which was recorded before the date on which the assessment sought to be enforced became delinquent; and
- 9.3 liens for real estate taxes and other governmental assessments or charges against the Lot.

Section 10. Six-Month Priority. A lien under this Article is also prior to the security interests described in section 9 of this Article to the extent of an amount equal to the Common Expense assessments based on a periodic budget adopted by the Association which would have become due, in the absence of any acceleration, during the six months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien created under this Article of an action or a nonjudicial foreclosure either to enforce or to extinguish the lien.

Section 11. Successor's Liability for Assessment. In addition to the personal obligation of each Owner of a Lot to pay all assessments and the Association's lien on a Lot for such assessments, all successors to the ownership of Lot shall be jointly and severally liable with the prior Owner for any and all unpaid assessments, interest, costs, expenses, penalties, and attorneys' fees against such Lot. This provision shall also apply to the land owned by any Associate Member of the Association.

## ARTICLE 11

### WATER RIGHTS

Section 1. Water Rights. Declarant hereby dedicates and conveys to the Association the water rights set forth in Exhibit A. Such water rights may not be separated from the Property other than through use with an augmentation plan for water use on the Property. The Association shall be in charge of managing, administering, and using such water rights. The Water Rights have previously been used to irrigate lands on the Property through certain laterals, which are not set forth on the Plat. The Association in conjunction with Lot Owners shall be in charge of determining how water shall be disbursed and used to achieve desired irrigation, and shall be in charge of maintaining and repairing any laterals that are desired to be used for irrigation. If the Association desires to use and maintain any such lateral, but the Owner of the Lot upon which such lateral is located does not desire the use or existence of such lateral to continue, the Owner and Association shall meet to come to a mutually acceptable agreement that shall allow the Association to continue use of the water right but shall also minimize disturbance of the Owner's Lot.

Section 2. Water Augmentation Plan. The Association shall be responsible for compliance with the terms of any decree and any plan of augmentation regarding water rights, if any, owned or obtained by the Association, the maintenance of all records and other reporting requirements imposed by any decree and the maintenance, repair, and replacement of all ditches, pipes, flumes, dams, outlet works, and other physical components required for the proper implementation of any plan of augmentation.

Section 3. Enforcement of Water Rights. Any Owner of a Lot in the Property shall have the right, in the event of the failure or inability of the Association to preserve and administer any water system and water rights within the Property, to undertake such action as was required of the Association but not performed, and to charge all costs and expenses thereof to the Association, including the maintenance of litigation for the recovery of all costs and expenses so incurred, including such owner's attorneys' fees and costs.

## ARTICLE 12

### ENFORCEMENT OF COVENANTS

Section 1. Violations Deemed a Nuisance. Every violation of this Declaration, the Articles and Bylaws of the Association, or any rules and regulations adopted by the Association may be deemed by the Board to be a nuisance and is subject to all the remedies provided for the abatement thereof.

Section 2. Failure to Comply. The failure to comply herewith shall be grounds for an action to recover damages, for injunctive relief and/or for specific performance. Reasonable notice and an opportunity for a hearing shall be provided by the Association to any delinquent Owner prior to commencing any legal proceedings, except where the safety of persons or property is threatened.

Section 3. Who May Enforce. Any action to enforce any violation of any provision of these Protective Covenants may be brought as follows:

- 3.1 By the Association.
- 3.2 By the Owner of any Lot.
- 3.3 By any Member or Associate Member of the Association.

Section 4. No Waiver. The failure of the Board, the Association or any Lot Owner to enforce or obtain compliance as to any violation, shall not be deemed a waiver of the right to do so for any subsequent violation or the right to enforce any part of such documents.

## ARTICLE 13

### DURATION OF COVENANTS

Section 1. Term. The term of this Declaration of Protective Covenants, and any amendments or supplements thereto, shall be from the date of recording in the records of Gunnison County, Colorado, until January 1, 2017. Thereafter, this Declaration of Protective Covenants shall be automatically extended for five successive periods of ten years each, unless otherwise terminated or amended as hereafter provided.

Section 2. Amendment. This Declaration of Protective Covenants, or any provision thereof, may only be terminated, extended, modified or amended as to the Property subject to the Protective Covenants, or any portion thereof, upon the written consent by the Owners of 67% or moire of the Lots in the Property. Any such amendment shall be by an instrument or instruments duly executed, acknowledged and recorded in the



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records of Gunnison County, Colorado, and upon such recording shall be for the benefit of and be binding on All Owners of Lots within the Property. Each Associate Member shall have the right to vote on any amendment affecting such Associate Member.

Section 3. Amendment by Declarant. Notwithstanding the provisions of Section 2, Article 13, above, Declarant reserves the right and power to modify or amend this Declaration and/or the Plat for any ministerial, technical, or corrective purposes by executing and recording such amendment in the records of Gunnison County, Colorado. This right to modify or amend this Declaration or the Plat shall be effective until two-thirds of all Lots within the Property have been conveyed by a recorded instrument of conveyance to a person or persons other than Declarant. This Section shall not affect any rights of Declarant under Article 15.

Section 4. Mortgage Holder Approval Not Required. The Declaration and/or Plat may be amended as set forth in Section 2 and 3, Article 12 of this Declaration and such amendment shall be effective against the holders of Mortgages encumbering Lots in the Property notwithstanding the fact that such holders of Mortgages have not approved such amendment.

## ARTICLE 14

### PRINCIPLES OF INTERPRETATION

Section 1. Severability. This Declaration, to the extent possible, shall be construed so as to give validity to all the provisions hereof. If any provision of this Declaration is determined to be invalid, unenforceable, or prohibited by any court, such determination shall not affect any other provision or section hereof and all other provisions and sections shall remain in full force and effect.

Section 2. Construction. In interpreting words herein, unless the context shall otherwise provide or require, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

Section 3. Headings. The headings on any section or article are included only for purposes of convenient reference and shall not affect the meaning or interpretation of this Declaration.

Section 4. Written Notice. All notices required under this Declaration shall be in writing. Notice to any Owner shall be considered delivered and effective upon personal delivery of five days after mailing by certified or registered mail, return receipt requested, to the address of such Owner on file in the records of the Association at the time of such mailing.

Section 5. Limitation of Liability. Neither the Association nor any officer or director shall be liable to any party for any action or for any failure to take any action with





respect to any matter arising by, through, or under this Declaration if the action or failure to act was made in good faith. The Association shall indemnify all officers and directors with respect to any action taken in their official capacity as provided in the Articles of Incorporation and Bylaws of the Association.

Section 6. Attorneys' Fees. The Association shall be entitled to reasonable attorneys' fees, as well as its reasonable costs and expenses, incurred by it in any proceeding or action to interpret or enforce any provision of the Association documents.

Section 7. Applicable Law. The proper jurisdiction and venue for any action pertaining to the interpretation or enforcement of the Association documents shall be the Small Claims Court, County Court or District Court of Gunnison County, Colorado, unless otherwise chosen by the Association.

Section 8. Interest. Any sums, amounts or monies due and owing to the Association under the Association documents shall bear interest at 18% per year from the date due until paid.

Section 9. Partition of Lots. No part of a Lot may be partitioned, separated, or subdivided from any other part thereof.

**ARTICLE 15**

**RIGHTS RESERVED TO DECLARANT**

Section 1. Development Rights and Special Declarant Rights. The Declarant specifically reserves the right to exercise in any order all Development Rights and Special Declarant Rights as set forth in the Colorado Common Interest Ownership Act and this Declaration for the maximum time limit allowed by law, including, without limitation, the following:

- A. The right to amend the Declaration or Plat as set forth in Sections 2, 3, and 4 of Article 13.
- B. The right to appoint or remove any officer of the Association or any Director of the Association during the Period of Declarant Control.
- C. The right to complete or make any Improvements as set forth on the Plat, the Association Documents or as required by Gunnison County.
- D. The right to maintain signs to advertise the Property.
- E. The right to sell all or part of the water rights currently owned by Declarant being used for irrigation of the meadows on the Property.

- F. The right to continue irrigation of any historically irrigated area within the Property with Declarant's water rights.
- G. The right to grant trail, utility, or other types of easements over the 20-foot Reserved Easement marked on Development Rights 7-10 on the Plat.
- H. The right to create and dedicate road, utility, and other type easements within the Development Rights 7-10 on the Plat at or before the time any Lots are created within these Development Rights.
- I. The right to dedicate as a road and utility easement, if such should be necessary, the 80-foot Road Right-of-Way set forth on Lot 6 for the benefit and use of Lot Owners within the Property, which right must be exercised at or before the time any Lots within the Development Rights are created. At present, that Right-of-Way is not dedicated but merely reserved.

Section 2. Reserved Development Rights. Notwithstanding any other provision of this Declaration, Declarant reserves the right to create additional Lots out of those areas marked as a Development Right on the Plat. Declarant reserves the right to combine all such areas marked as Development Right into one Lot.

Section 3. One Additional Lot Created. If Declarant elects to combine all areas marked as Development Right into one Lot, the provisions of this Section shall apply. Declarant shall file an amendment to the Declaration creating such Lot and vacating the description of any road or road right-of-way on the Lot, if necessary. Declarant shall also state in the amendment which use restrictions and other provisions of this Declaration, if any, shall apply to the Lot, except that the Lot Owner shall not be denied the right to use the roads within East River Ranches. If the Lot is not made subject to the use restrictions and architectural control provisions of this Declaration, then the Owner of the Lot being created shall not have any fishing rights under Article 7, and the Lot Owner shall be considered as an Associate Member of the Association, being subject only to regular and special assessments for road repair and maintenance and continuation and use of the Association's water rights. The Associate Member shall not be permitted to vote on matters relating to other provisions and regulations of this Declaration by which he is not bound, and the Associate Member shall be authorized to participate in Association votes for Directors and officers.

Section 4. Additional Lots Created. If Declarant creates more than one Lot out of the Development rights set forth on the Plat, those Lots shall be subject to all of the restrictions, covenants, obligations, and privileges in this Declaration, and the Owners of such Lots shall be full Members of the Association, subject to the voting rights provisions of Article 9, Section 4. Declarant hereby reserves the right to create up to 20 Lots total out of those areas set forth as Development Rights on the Plat.



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IN WITNESS WHEREOF, the Declarant has executed this Declaration of Protective Covenants the day and year first above written.

Garland Properties, Inc.  
a Colorado corporation

By: Gary F. Garland  
Gary F. Garland, President

STATE OF COLORADO            )  
  ) ss.  
County of Gunnison            )

This Declaration of Protective Covenants was acknowledged before me this 9th Day of July, 1997, by Gary F. Garland, as President of Garland Properties, Inc., a Colorado corporation.

Witness my hand and official seal  
My Commission expires: 3-23-1999

[SEAL]



Cheri L. Moyer  
Notary Public

**EXHIBIT A**

**Description of Water Rights  
for Declaration of Protective Covenants  
of East River Ranches**

1 c.f.s. in the East River No. 2 Ditch, Ditch No. 130, out of the right awarded to said ditch under Priority 119, adjudicated in the Decree dated September 14, 1906;

1 c.f.s. in the East River No. 2 Ditch, Ditch No. 130, out of the right awarded to said ditch under Priority 366, adjudicated in the Decree dated April 29, 1941; and

2 c.f.s. in the McClenathan Ditch, Ditch No. 276, out of the right awarded to said ditch under Priority 423, adjudicated in the Decree dated April 29, 1941.