

## DECLARATION OF PROTECTIVE COVENANTS

OF

## CHRIS MOUNTAIN RANCH

THIS DECLARATION AND AGREEMENT is executed this 28 day of August, 1995, by FAIRFIELD COMMUNITIES, INC., a Delaware corporation, and Colorado Land Title Company, a Colorado corporation, as nominee for Fairfield Communities, Inc., hereafter referred to collectively as "Declarant."

ARTICLE 1

## STATEMENT OF PURPOSE OF DECLARATION

Section 1.1 Ownership of Property. Declarant is the owner of the real property ("Property") situate in Archuleta County, Colorado, described on the attached Exhibit "A."

Section 1.2 Declaration of Covenants. Declarant hereby makes, declares and establishes the following covenants, 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 any portion of the Property or any Tracts as described on the Chris Mountain Ranch Plat, 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 the a Tract within the Property.

Section 1.3 Statement of Purpose. This Declaration of Protective Covenants is imposed for the benefit of all owners and future owners of tracts, parcels and areas located within the Property and to provide for the preservation of values of the Property and to provide and to preserve the covenants, easements, restrictions, assessments and liens hereafter set forth, all of which are for the benefit of the Property.

ARTICLE 2

## DEFINITIONS

The following terms and words shall have the following definitions:

Section 2.1 "Association" shall mean the Chris Mountain Ranch Association, a Colorado non-profit corporation, or any successor thereof, charged with the duties and obligations set forth herein.

Section 2.2 "Association Documents" shall mean this Declaration of Protective Covenants, the Articles of Incorporation and Bylaws of the Association, any amendments thereto, and any rules regulations or policies adopted by the Association.

Section 2.3 "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 2.4 "Barn" shall mean an accessory building designed to enclose livestock and to store agricultural products, vehicles, feed, supplies and agricultural and livestock equipment and property and any incidental use associated therewith.

Section 2.5 "Board of Directors" or "Board" shall mean the Board of Directors of the Association duly elected and acting according to the Articles of Incorporation and Bylaws of the Association.

Section 2.6 "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 2.7 "Common Area" shall mean all real property in which the Association owns any interest or has a leasehold interest for the common use and enjoyment of its members, as designated on the recorded plat. Such interest may include, without limitation, estates in fee, estates for a term of years, leasehold estates, or easements. Each and every Common Area may have a restricted use or enjoyment and may be designated for a specific use for such Common Area.

Section 2.8 "Family Residence" shall mean the primary residence on any Tract designed for occupancy by the owner of the Tract.

Section 2.9 "Garage" shall mean an accessory building or an accessory portion of a residence designed for the storage of one or more motor vehicles and any incidental use associated therewith.

Section 2.10 "Guest House" shall mean a separate residence, either attached or detached from the family residence, designed for occupancy either by the owner of the Tract or the owner's guests.

Section 2.11 "Improvement" shall mean all buildings, structures, parking areas, loading areas, fences, walls, hedges, plantings, poles, driveways, ponds, lakes, recreational facilities, signs, decks, enclosures, change 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 2.12 "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 2.13 "Member" shall mean any person holding membership in the Association.

Section 2.14 "Mortgage" shall mean any mortgage, deed of trust or other document pledging a Tract or interest therein as security for the payment of any indebtedness. "First Mortgage" shall mean any mortgage which is not subject to or junior to any lien or encumbrance, except liens for taxes and other liens which are given priority by statute.

Section 2.15 "Open Space" shall mean all of the Tract 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 2.16 "Owner" shall mean the record owner, whether one or more persons or entities, of fee simple title to any Tract; provided, however, that prior to the first conveyance of any Tract for value after this Declaration, the Owner shall mean the Declarant unless the grantor has designated its successor in ownership of fee simple title to exercise the rights, duties and obligations of ownership.

Section 2.17 "Plat" shall mean any plat of Chris Mountain Ranch and all subsequent plats as filed in the records of Archuleta County, Colorado, which are subject to these Protective Covenants, and as the same may be amended, enlarged or revised from time to time and affecting the Property.

Section 2.18 "Property" shall mean and include all of the Property subject to this Declaration.

Section 2.19 "Tract" shall mean a tract as shown on the original plat of Chris Mountain Ranch and any amended or subsequent plats.

### ARTICLE 3

#### USE OF TRACTS

Section 3.1 "Residential Use". All Tracts shall be used exclusively for single family residential purposes. No additional buildings or improvements shall be permitted without the prior review and written approval of the Board of Directors. In no event shall the Tract Owner be allowed to construct more than one Family Residence and one Guest House per Tract.

Section 3.2 "Approval of Use". No Improvement shall be constructed on any Tract, except only as approved by the Board of Directors.

Section 3.3 "No Commercial Use". No commercial or business enterprise of any nature shall be allowed or permitted on any Tract; provided, however, that the Owner of the Tract may be permitted to rent or lease the residence and to conduct a home occupation on any Tract upon the prior approval by the Board of Directors as to such occupation. Regardless of any lease of

a residence hereunder, Owner shall remain directly liable for all obligations imposed by these Protective Covenants.

Section 3.4 Partition of Tracts. No part of a Tract may be partitioned, separated or subdivided from any other part thereof. This section shall not be construed as precluding a boundary line adjustment between two Tract Owners, so long as no resulting Tract is smaller than 35 acres.

#### ARTICLE 4

##### ARCHITECTURAL REVIEW AND APPROVAL

Section 4.1 Board. The Board of Directors of the Association shall be the Architectural Review Board ("ARB"). The Board, at its sole discretion, may delegate the duties of the Architectural Review Board in writing to three or more members. For purposes of this Article 4, the ARB shall refer to the Board of Directors of the Association, sitting as the Architectural Review Board, or the three Architectural Review Board members designated by the Board of Directors.

Section 4.2 Review and Approval. No single-family residence, guest house, garage, barn, building or improvement shall be commenced, constructed, erected or maintained upon any Tract, nor shall any landscaping be done, nor shall any exterior addition, change or alteration be made, until the plans and specifications therefor have been submitted to and approved in writing by the ARB in the manner hereafter set forth.

Section 4.3 Submittal Procedure. Prior to the commencement of any such construction, the plans for the proposed building or improvement shall be submitted to the ARB for approval. The submittal for approval shall include, at a minimum, the following documents:

- (a) A plot plan showing the location of any building or improvement, access driveway, parking area and any terrain or structure features, such as large rocks, trees, ponds, patios, fences, utility lines, storage areas or decks.
- (b) The plans and specifications for the building, and including a roof plan, in sufficient detail to verify and confirm the size, type and dimensions of the building, and height of the building, all design features thereof, all exterior elevations showing all sides of the building, all floor plans and the types of construction and materials.
- (c) Samples of the exterior materials and color schemes for the building.
- (d) A landscape, drainage and grading plan.

Section 4.4 Purpose of Review. The ARB shall consider the suitability of the proposed building and in particular the harmony of the building with the environment, the effect of the

building on the utilization and view of the Tract and surrounding Tracts and property and the placement of the building with respect to topography, drainage, snow removal, ground elevations, and existing natural and terrain features.

Section 4.5 Hearing. The ARB shall, within thirty days of receipt of a submittal for approval request with all accompanying data, hold a hearing on such request. The ARB may approve, disapprove or approve with conditions any request submitted to it. The decision of the ARB 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 thirty (30) days after receipt of a submittal for approval request, the application shall be deemed to have been approved.

Section 4.6 Notice of Hearing. The Applicant, and any person on his or her behalf, may attend the hearing on the application for approval and submit such information as the person may desire. Notice of the hearing shall be given in writing to all members of the Association at least five (5) days prior to the date of the hearing and all members shall have the right to be present at the hearing or to submit in written form any comments they may desire.

Section 4.7 Quorum. A majority of the ARB shall constitute a quorum and all decisions of the ARB shall be by a majority vote of the directors present.

Section 4.8 Final Decision. The decision of the ARB shall be final, subject only to the right of judicial review as provided by the laws of the State of Colorado. The ARB shall indicate to any Applicant in the event of disapproval, the reasons why the request was rejected and grant to the Applicant an opportunity to resubmit with the revisions and corrections that would bring the request for approval into conformity with the requirements of this Declaration of Protective Covenants.

Section 4.9 Rules and Regulations. The ARB may adopt such rules and regulations as are appropriate to govern its proceedings as an ARB.

Section 4.10 No Application Fee. No application fee will be required for any approval request. All fees for the operation of the ARB shall come out of Association assessments.

Section 4.11 Building Permit. In addition to the approval requirements by the ARB, each owner is responsible for obtaining all approvals, licenses and permits as may be required by Archuleta County, Colorado, and any entity or district having jurisdiction over the Tract prior to the commencement of construction.

## ARTICLE 5

### DESIGN REQUIREMENTS

Section 5.1 Design Requirements. Any residence, guest house, garage, barn, building or improvement situate on any Tract shall comply with the design requirements of this Article.

Section 5.2 Setback. Any building or improvement, except fences, shall be set back from any Tract line as follows:

- (a) 150 feet on any tract.
- (b) 75 feet from any easement or common area as defined herein.

Section 5.3 Uniform Building Code. All buildings and improvements shall meet all of the requirements, including fire protection standards, of the Uniform Building Code, and any other building code or fire code of Archuleta County, Colorado, then in effect.

Section 5.4 Density. The allowable gross residential floor area (GRFA) shall be not less than 2,000 square feet for any family residence, unless otherwise approved by the Board of Directors. If the family residence consists of more than one story, the ground floor shall be not less than 2,000 square feet.

Section 5.5 Height. The maximum height of any Building shall be 30 feet. The height of a Building for the purpose of this Section shall be measured and determined in the manner provided by the Uniform Building Code.

Section 5.6 Roofs. Any metal roof must have a color finish approved by the Board of Directors.

Section 5.7 Garages. Each single family residence shall have an attached or detached garage capable of holding a minimum of two motor vehicles.

Section 5.8 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 kind 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 type block. All colors of exterior walls and roofs will be natural or earth tones in color to blend with the natural surroundings except that colored trim may be allowed upon approval of the Board of Directors.

Section 5.9 Service or Utility Areas. All service or utility areas or yards, and including garbage cans and trash storage areas, shall be screened from view of all other property owners.

Section 5.10 Antennae. No exterior radio, television, microwave or other antennae or antennae dish or signal capture or distribution device of a height greater than the gable height of the family residence, or in the case of a dish, in excess of 30" diameter shall be permitted or installed on any Tract unless it is entirely screened from view on all sides and such screening shall be in keeping with the terrain and environment.

Section 5.11 Wood Burning Devices. All solid fuel or wood burning stoves and devices, including fireplaces, shall comply with any rules and regulations implemented and in effect by any federal, state or local governmental entity.

Section 5.12 Wildfire Safety. In the design and location of any buildings within the Building Site, a wildfire safety zone will be utilized following the recommendation of the Colorado State Forest Service as contained in the "Wildfire Safety Guidelines for Rural Homeowners" by J. Bruce Coulter, Colorado State Forest Service, Colorado State University, 1980, or any later addition then in effect.

Section 5.13 Fences. All perimeter fencing shall comply with Colorado Division of Wildlife recommendations for wildlife migration. No fence shall be constructed which will impede the use of any designated easement, including but not limited to the emergency access easement as designated on the plat.

Section 5.14 Recreational Vehicle Storage. All recreational vehicles, including boats, motor homes, campers, camp trailers and similar vehicles shall be stored in a structure approved by the ARB.

## ARTICLE 6

### CONSTRUCTION AND MAINTENANCE REQUIREMENTS

Section 6.1 Excavation. No excavation shall be made on any Tract, except in connection with a building or other Improvement approved in accordance with this Declaration of Protective Covenants.

Section 6.2. Water and Sewage Disposal Systems. 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 and water systems shall comply with the following:

- (a) No open lagoons of any type shall be allowed.
- (b) All sewage disposal systems must meet all applicable rules and regulations of Archuleta County and the State of Colorado.

Section 6.3 Signs. No sign of any kind shall be displayed to public view on any portion of any Tract, except only a sign not to exceed four square feet identifying the Owner and/or address of the Tract or a sign, not to exceed four square feet, advertising the Property for sale.

Section 6.4 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 for any surface water discharge easement.

Section 6.5 Temporary Structures. No occupied temporary structure, specifically including but not limited to a tent, yurt, teepee, modular home, mobile home, trailer house, travel trailer or R. V. vehicle or similar structure or vehicle shall be permitted on any Tract.

Section 6.6 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.

Section 6.7 Landscaping. No trees with a base diameter in excess of 8 inches shall be cut or removed from any Tract 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; (5) limited tree cutting approved by the Board of Directors in a manner that will not be visible to any other Tract or as required for Wildfire Safety.

Section 6.8 Trash. No trash, ashes, garbage or other refuse shall be allowed to accumulate or be placed on any Tract or area within the Property. There shall be no burning 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 animal and other disturbances.

Section 6.9 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 portion of a Tract. "Abandoned or inoperable vehicle" shall be defined as any vehicle which is not currently licensed and has not been driven under its own propulsion for a period of thirty (30) days or longer; provided, however, this shall not include vehicles parked by Owners while on vacation. 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 expenses thereof shall be charged against the Owner.

Section 6.10 Noise. No exterior horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the improvements on any Tract, shall be placed or used on any Tract.

Section 6.11 Nuisance. No obnoxious or offensive activity 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 to exist or operate upon the Property so as to be offensive or detrimental to any other part of the Property or its owners or occupants; provided,



however, that this Section shall not apply to any noise or other activity approved by the Board of Directors as to the construction of any improvements.

Section 6.12 Hazardous Activities. No activities shall be allowed or conducted on the Property which are or might be unsafe or hazardous to any person or property. No outside open fires shall be permitted on any Tract unless contained within a cooking or barbecue type unit or grill, or unless an appropriate permit has been issued by the local fire department.

Section 6.13 Maintenance and Repair. If Owner fails to maintain his or her Tract, or any improvements thereon, in good repair, the Board may give the Owner written notice of the needed maintenance or repair. If said maintenance or repair is not completed by the Owner within 45 days of mailing of said notice, the Board, at its option, may obtain an injunction against the Owner to force completion of the needed work, or contract with a third party for the needed work and assess the costs of same against the Owner pursuant to Article 9 hereof.

## ARTICLE 7

### ANIMALS

Section 7.1 Confinement of Animals. Due to an abundance of wildlife in the area, all domestic animals shall be kept on the Owner's Tract, and confined to an area immediately surrounding the Owner's residence, or attached to a leash or other suitable control device, or otherwise kept under the direct control of Owner. The Owner of any animal shall at all times be personally liable and responsible for all actions of such animals and any damage caused by such animal.

Section 7.2 Rules and Regulations. The Board of Directors may adopt suitable rules and regulations as to the keeping and maintaining of any animals on any Tract and may in particular circumstances approve variances as to the number and type of animals to be allowed, kept or maintained on any Tract. Unless otherwise approved by the Board of Directors, not more than 3 dogs may be kept on any Tract.

Section 7.3 Livestock. One horse or cow for each four (4) acres of land in any Tract may be maintained and kept on any Tract so long as such animals are kept and maintained within a fenced or enclosed area and such area is kept in a clean and sanitary condition. No sheep, goats, swine or poultry shall be kept on any Tract. Other livestock may be maintained or kept on any Tract only with the permission of the Board of Directors and only if also kept and maintained within a fenced or enclosed area kept in a clean and sanitary condition.

Section 7.4 Impoundment of Animals. The Association is specifically empowered to impound any animals running at large within the Property. Upon impoundment, the owner of the animal, if known, shall be immediately notified and the animal shall be taken to the nearest facility which accepts impounded animals. It is the duty of the owner of such animal to recover the animal from such facility and if the animal is not recovered by the owner in accordance with

the rules and regulations of such facility, the facility may destroy the animal without liability to the owner thereof.

## ARTICLE 8

### CHRIS MOUNTAIN RANCH ASSOCIATION

Section 8.1 Government of Association. Chris Mountain Ranch Association, a Colorado non-profit corporation, shall be governed by and shall exercise all of the duties, privileges and obligations set forth in the Declaration, the Articles of Incorporation and Bylaws of the Association.

Section 8.2 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 Tract owned by such Owner, but all persons owning each Tract shall be entitled to the rights of membership and the use and enjoyment appurtenant to the ownership of each Tract.

Section 8.3 Termination of Membership. The right of membership in the Association and the status as a member shall terminate upon the termination of status as an Owner of a Tract. 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 8.4 Voting Rights. All Owners within Chris Mountain Ranch shall be members of the Association. Each Tract shall be entitled to one (1) vote in the Association. The one (1) vote for each Tract shall be exercised by the Owner and when more than one person or entity holds an interest in a tract, the vote for the Tract shall be exercised as the Owners may determine among themselves, but vote for the Tract shall be cast by only one person.

Section 8.5 Compliance with Documents. Each Owner shall abide by and have the benefit from the provisions, covenants, conditions and restrictions contained in the Association Documents.

Section 8.6 Rules and Regulations. The Association shall from time to time adopt, amend and repeal rules and regulations to be known as the "Chris Mountain Ranch Rules" governing, among other things, and without limitation:

- (a) The use of any private road or street.
- (b) The use of any easements for utilities within the Property.
- (c) Standards for the care and maintenance of all improvements, grounds and landscaping within the Property, including private roads and streets.

(d) The use, maintenance and enjoyment of any real property, private road, street or easement conveyed or dedicated to the Association.

(e) The removal or treatment of diseased or beetle infested trees or noxious weeds.

Section 8.7 Grant of Utility 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 designated on any Plat. The Owner of each Tract, 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 10 feet in width adjacent to any two exterior boundary lines of any Tract and 20 feet on either side of platted roadways for the installation, construction and maintenance of underground utilities.

Section 8.8 Road Maintenance. All common roads within the Property shall be constructed in accordance with road permits issued by Archuleta County, Colorado and by the Colorado Department of Transportation. Upon completion of construction of the roads, all maintenance, repairs, snow plowing and supervision shall be the duty of and vested in the Declarant until such time that an Association is formed and operating, and then shall become the duty of the Association. The Declarant/Association shall specifically:

(a) At all times keep in good repair all roads within the Property and maintain the same in suitable condition for use by the members of the Declarant/Association and emergency vehicles, including fire trucks.

(b) Snow plow the roads during the winter months as required for access to any Tract.

(c) At all times keep all road rights-of-way and pedestrian pathways in good repair and free of noxious weeds.

(d) The Declarants/Associations obligation to repair, maintain and snow plow the road shall extend to the emergency access easement located between Colorado Place and Trails Boulevard in Chris Mountain Village Unit 2. No snow shall be allowed to accumulate along the emergency access gate, if any, located between the Property and Chris Mountain Village Unit 2. Any third party beneficiary of the obligations set forth in this Section 8.4, including but not limited to Archuleta County and any tract owners in Chris Mountain Village Unit II, and Trails Subdivisions, according to the plats thereof filed with Archuleta County, shall be entitled to proceed at law or in equity, to enforce said obligations.

Section 8.9 Sign Easements. Tracts 1 and 10 shall be subject to an easement for existing signs, for the sale and identification of Chris Mountain Ranch. At such time as all Tracts have been sold, the sign easement for the sales sign shall automatically terminate.

## ARTICLE 9

### ASSESSMENTS

Section 9.1 Creation of Lien. Each Owner of any Tract, 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: (1) All regular assessments or charges; (2) any special assessments or charges; and (3) any 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 fees, shall be a charge and continuing lien upon the Tract against which each such assessment is made until paid. Each such assessment, together with interest, costs and reasonable attorney fees, shall be the personal obligation of the Owner of such Tract at the time when the assessment became due.

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

For the first two years after recordation of the Declarations, annual assessments shall be not less than \$500.00, nor more than \$1,000.00 per tract.

Section 9.2 Purpose of Assessments. The assessments levied by the Association shall be limited to and used exclusively for the following:

- (a) The maintenance, repairs, snow removal and improvement of any common road, street or right of way ditch within the Property.
- (b) Any maintenance, repair or improvement required to be made by any Owner to any improvement on any Tract which the Owner fails to do.
- (c) Any costs associated with review and approval of building plans by the Architectural Review Board.
- (d) Any costs and expenses pertaining to the operation of the Association in the performance of its duties.
- (e) Any other purpose approved by a majority vote of all members of the Association.

Section 9.3 Types of Assessments. The Board of Directors shall have the authority to levy the following types of assessments for the Association:

(a) 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 Tracts.

(b) Special Assessments. Special assessments for the purpose of construction, improvement, repair, replacement, enlargement or other special purposes pertaining to a specific or special matter for the benefit of the entire Association. Special assessments shall be apportioned and allocated equally among all Tracts.

Section 9.4 Regular Assessments. The Board of Directors shall prepare a budget prior to the beginning of each fiscal year of the Association and not less than thirty (30) days prior to the commencement of each fiscal year, the Board shall adopt a final budget and shall determine, levy and assess the Association's regular assessments for the following year.

The proposed budget for the next fiscal year shall be presented to and approved by the members at the annual meeting of the membership.

Section 9.5 Special Assessments. In addition to the regular assessments set forth in Section 4 above, the Board of Directors may levy in any fiscal year one or more special assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement within or upon any common roads or streets, for any other construction, repair or replacement or to make up any shortfall in the current year's budget. Notice of the amount and due dates for such special assessments shall be sent to each Owner at least thirty (30) days prior to the due date. Such special assessment shall be for the use and benefit of all Tracts.

Prior to the Board of Directors levying a special assessment that exceeds \$1,000.00 in an aggregate amount per Tract, the special assessment shall be submitted to and approved by an affirmative vote of the members at either a regular meeting of the members or a special meeting of the members called for such purpose, after appropriate notice.

Section 9.6 Assessment for Each Tract. All regular and special assessments shall be apportioned and allocated equally among all Tracts.

Section 9.7 Declarant Not to be Assessed. No assessment shall be made against the Declarant by virtue of Declarant's ownership of any Tract.

Section 9.8 Default Assessments. Any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner, shall be a default assessment and shall become a lien against such Owner's Tract and may thereafter be foreclosed or otherwise collected as provided here. Notice of the amount and due date of such default assessment shall be sent to the Owner subject to such assessment at least thirty (30) days prior to the due date.

Section 9.9 Nonpayment of Assessments. Any assessment, whether regular, special or default assessment, which is not paid within thirty (30) days of its due date shall be deemed delinquent. In the event that any assessment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

(a) Assess a late charge of 10% of the amount due and owing per each delinquency. The percentage late charge may be amended by the Board of Directors.

(b) Assess an interest rate charge from the date of delinquency at 18% per year, or such other rate as shall be established by the Board of Directors.

(c) Suspend the voting rights of the Owner during any period of delinquency.

(d) Bring an action against any Owner personally obligated to pay the delinquent assessment.

(e) File a Statement of Lien with respect to the Tract and foreclose such lien in the manner hereafter set forth. The Association may file a Statement of Lien by recording with the Clerk and Recorder of Archuleta County, Colorado, a written statement with respect to the Tract, setting forth the name of the Owner, the legal description of the Tract, 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, or Secretary of the Association and which shall be sent by certified mail, postage prepaid, to the Owner of the Tract at such address as the Association may have in its records as to the Owner. Thirty (30) days following the mailing of such Notice, the Association may proceed to foreclose the Statement of Lien in the same manner as provided for the 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 attorney 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 attorney fees with respect to the action.

(f) The Statement of Lien shall be superior to all other liens and encumbrances on such Tract, except any tax and assessment liens levied by any governmental entity and the lien of any First Mortgage.

Section 9.10 Successor's Liability for Assessment. In addition to the personal obligation of each Owner of a Tract to pay all assessments and the Association's lien on a Tract for such assessments, all successors to the ownership of a Tract shall be jointly and severally liable with the prior Owner for any and all unpaid assessments, interest, costs, expenses and attorney fees against such Tract.

## ARTICLE 10

### DECLARANT RECREATION FEE

Section 10.1 Recreation Fee. Each Tract as shown on the Plat of Chris Mountain Ranch shall be subject to the Recreational Fee as established in the Supplemental Declaration of Restrictions filed for record with the Archuleta County Clerk and Recorder's Office on August 2, 1983 at Book 201, Page 15, Reception No. 117710. Each Owner of a Tract shall be required to pay an assessment made by the Declarant, its successors or assigns for the use, enjoyment and maintenance of recreational facilities owned and/or operated by Declarant. Said Recreation Fee shall be in addition to the fees charged by the Association. The Recreation Fee shall be collected by the Declarant, its successors or assigns at such address or addresses of the Declarant, its successors or assigns, as may be designated by the Declarant. The Owner of a Tract, by payment of the Recreation Fee, shall be entitled to use such recreational facilities owned and/or operated by Declarant from time to time, as the Declarant may designate from time to time, subject to applicable payment rates and terms and conditions determined by the Declarant.

Section 10.2 Creation of Lien. Declarant shall be entitled to a lien on each Tract for any unpaid Recreation Fee, together with interest thereon at the rate provided for herein. Each lien shall be subordinate to a previously recorded first mortgage or deed of trust encumbering the Tract and shall also be subordinate to any lien of the Association provided for above. The Owner of a Tract shall be responsible for payment of all attorney fees incurred by the Declarant to collect the Recreation Fee or perfect or foreclose its Recreation Fee lien, and all sums paid by Declarant for taxes or to prevent default under or foreclosure of previously recorded first mortgages or deeds of trust, liens, or other encumbrances, which amounts shall be added to and comprise a portion of Declarant's Recreation Fee lien. Any person who acquires a Tract shall not be entitled to occupancy or use of such Tract until such time as any unpaid Recreation Fee or Recreation Fee lien against the Tract incurred by that Person's predecessor in interest has been paid to Declarant. Declarant reserves the right to assign any claim or lien right created by this paragraph to any third party for enforcement or recovery of any unpaid Recreation Fee or Recreation Fee lien.

## ARTICLE 11

### ENFORCEMENT OF COVENANTS

Section 11.1 Violations Deemed a Nuisance. Every violation of this Declaration of Protective Covenants, the Articles and Bylaws of the Association or any rules and regulations adopted by the Association shall be deemed to be a nuisance and is subject to all the remedies provided for the abatement thereof.

Section 11.2 Failure to Comply. The failure to comply herewith shall be grounds for an action to recover damages, or for injunctive relief or for specific performance or any of them.

Reasonable notice and an opportunity for a hearing shall be provided by the Association to any delinquent Owner prior to commencing any legal proceedings.

Section 11.3 Who May Enforce. Any action to enforce any violation of any provision of these Protective Covenants may be brought as follows:

- (a) By the Association in the name of the Association and on behalf of the Owners.
- (b) By the Owner of any Tract.
- (c) If specifically provided for herein, by Archuleta County, any emergency service provider and members of adjacent subdivisions.

Section 11.4 No Waiver. The failure of the Board, the Association, or any Tract 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 12

### DURATION OF COVENANTS

Section 12.1 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 Archuleta County, Colorado, until January 1, 2015. 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 12.2 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 75% or more of the Tracts in the Property. Any such amendment shall be by an instrument duly executed, acknowledged and recorded in the records of Archuleta County, Colorado, and upon such recording shall be for the benefit of and be binding on all Owners of Tracts within the Property. Provided, however, the right of amendment herein granted may not be exercised by the owners of Tracts in the Property until either (1) five years have passed from the date of construction of the first improvements on any Tract or (2) 75% of all Tracts within the Property have been sold or conveyed to third person owners by the Declarant, whichever occurs first.

Section 12.3 Amendment by Declarant. Notwithstanding the provisions of Section 2, the Declarant reserves the sole right and power to modify and amend this Declaration of Protective Covenants, and all Plats subject to this Declaration of Protective Covenants, by executing and recording such amendment in the records of Archuleta County, Colorado. Such right or power of the Declarant is limited to (1) the correction of any typographical or language



errors in the Declaration of Protective Covenants and/or Plats, (2) any corrections required to comply with the applicable laws, rules and regulations of any governmental entity having jurisdiction over the Property, and (3) any changes or corrections required to reasonably satisfy the requirements of any commercial lender to provide financing for the purchase and/or construction of a residence upon any Tract, which are not contrary to terms of the Agreement. This right and power of the Declarant to modify or amend this Declaration of Protective Covenants and the Plats, in whole or in part, as set forth in this Section 3, shall be effective only until (1) five years after the date of construction of the first improvements on the Property or (2) the date that 75% of all Tracts within the property have been sold or conveyed to third person owners by the Declarant, whichever occurs first.

### ARTICLE 13

#### PRINCIPLES OF INTERPRETATION

Section 13.1 Severability. This Declaration of Protective Covenants, to the extent possible, shall be construed so as to give validity to all of the provisions hereof. If any provision of this Declaration of Protective Covenants is determined to be invalid, unenforceable or prohibited by any court the same shall not affect any other provision or section hereof and all other provisions and sections shall remain in full force and effect.

Section 13.2 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 13.3 Pleadings. 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 of Protective Covenants.

Section 13.4 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 or five days after mailing by regular mail, postage paid, to the address of such Owner on file in the records of the Association at the time of such mailing.

Section 13.5 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 13.6 Attorney Fees. The Association shall be entitled to reasonable attorney 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 13.7 Applicable Law. The sole jurisdiction and venue for any action pertaining to the interpretation of enforcement of the Association documents shall be the District Court of Archuleta County, Colorado.

Section 13.8 Interest. Any sums, amounts or monies due and owing to the Association under the Association documents shall bear interest at 4% above prime, as charged by the Bank of the Southwest from the date due until paid. In the event of changes in the prime during the period of any default, resulting in difficulty in computing arrearages, any sums due shall bear interest at 18% per year from the date due until paid.

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



FAIRFIELD COMMUNITIES, INC.

By: Joe T. Gunter

Joe T. Gunter  
Sr. Vice President

COLORADO LAND TITLE COMPANY

By: Robert W. Ptolemy

Robert W. Ptolemy  
President

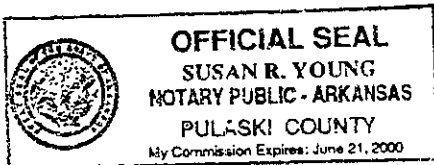


STATE OF ARKANSAS )

County of Pulaski )

The foregoing instrument was acknowledged before me this 28 day of August, 1995, Joe T. Gunter.

WITNESS my hand and seal. My Commission Expires: 6/21/2000



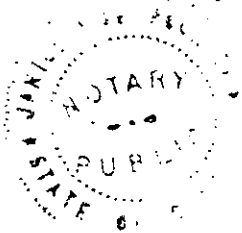
Susan R. Young  
Notary Public

STATE OF COLORADO       )  
                                  ) ss.  
County of La Plata        )

The foregoing instrument was acknowledged before me this 22<sup>ND</sup> day of <sup>September</sup>~~August~~, 1995, by Robert W. Ptolemy.

WITNESS my hand and official seal.

My commission expires: 8-10-97



*June Madrid*  
Notary Public

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which hereby is acknowledged, The Chris Mountain Ranch Association, Inc., a Colorado not for profit corporation, hereby agrees to accept all of the benefits and all of the duties, responsibilities, obligations and burdens imposed upon it by the provisions of this Declaration.

IN WITNESS WHEREOF, The Chris Mountain Ranch Association, Inc., a Colorado not for profit corporation, has caused this instrument to be executed in its corporate name by its President and attested by its Secretary, all by order of its Board of Directors first duly given, this the 3<sup>rd</sup> day of November, 1995.

THE CHRIS MOUNTAIN RANCH  
ASSOCIATION, INC.

Attest:

Ben Banks

By

Steven L. Thull P. of Sales

STATE OF COLORADO )

) ss.

County of Archuleta )

On this 3<sup>rd</sup> day of November, 1995, before me appeared Steven L. Thull and Ben Banks, to me personally known, who, being by me duly sworn did say: that they are the President and Secretary of The Chris Mountain Ranch Association, Inc., respectively, a not for profit corporation of the State of Colorado, and that said instrument was signed and on behalf of said corporation by authority of its Board of Directors, and said President and Secretary acknowledged said instrument to be the free act and deed of said corporation.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

Anne Perea  
Notary Public

My Commission expires: 1-14-98

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### LEGAL DESCRIPTION

A tract of land lying west of Pagosa Springs, situate in Section 25, T. 35 N., R. 2-1/2 W. and in Sections 19 & 30, T. 35 N., R. 2 W., N.M.P.M., being a new survey of Chris Mountain Village at Pagosa according to the plat filed for record June 6, 1972 under Reception No. 75934 and vacated by Archuleta County Board of County Commissioners Resolution No. 95-2 recorded July 15, 1995 as Reception No. 1995004417, and being more particularly described from plat of survey entitled "Survey for Fairfield Pagosa, Inc.", completed in April of 1993 by William H. Albert, PS No. 26228, and having as the basis of bearing N.45°01'38"W. (from USC&GS brass cap "Eight Mile Mesa Lockout Tower" to USC&GS "Sunetha") as follows:

Beginning at a 1-1/2" alum. cap found at the south 1/16 corner common to Sections 25 & 30 and marked "S1/16, 25/30, LS 9009" whence the section corner common to Sections 30 & 31, T. 35 N., R. 2 W., and Sections 25 & 30, T. 35 N., R. 2-1/2 W., N.M.P.M., an 8" x 8" x 16" stone with "X" scribed on top, 5 slashes on the north face and 1 slash on the south face and set firmly in the ground bears S.00°27'14"W. a distance of 1309.67 feet and whence the 1/4 corner common to Sections 25 & 30, a 3-1/4" aluminum cap marked "1/4", S25, R2-1/2W/S30, R2W, T35N, LS 9009, J. Bauer, 1985" bears N.00°29'46"E. a distance of 1310.45 feet;

Thence N.87°29'26"W. a distance of 2645.53 feet to a set 2-1/2" x 30" aluminum pipe with a 2-1/2" aluminum cap marked "Metes & Bounds, Chama, NM, C S1/16, S25, 1993, PS 26228 CO PS 7241 NM" whence a found stone marked "1/4" on the north face bears S.00°23'05"E. a distance of 1298.81 feet;

Thence N.88°11'39"W. a distance of 1296.32 feet to a 2-1/2" x 30" aluminum pipe with 2-1/2" aluminum cap marked "Metes & Bounds, Chama, NM, SW 1/16, S25, 1993 PS 26228 CO PS 7241 NM", set for the southwest corner;

Thence N.00°23'52"E. a distance of 1307.98 feet to a 2-1/2" x 30" aluminum pipe with 2-1/2" aluminum cap marked "Metes & Bounds, Chama, NM CW1/16C S25, 1993 PS 26228 CO PS 7241 NM";

Thence N.01°07'33"W. a distance of 18.13 feet to a 1/2" rebar with PS 26228 cap set for the northwest corner at a point on the centerline of a 50-foot gas pipeline easement;

Thence along the centerline of said 50-foot gas pipeline easement as follows:

N.69°1'44"E. a distance of 236.66 feet to a set 1/2" rebar with PS 26228 cap;

N.70°08'20"E. a distance of 647.44 feet to a set  
1/2" rebar with PS 26228 cap;

N.73°49'14"E. a distance of 610.98 feet to a set  
1/2" rebar with PS 26228 cap;

N.67°47'37"E. a distance of 1509.99 feet to a set  
1/2" rebar with PS 26228 cap;

N.63°02'41"E. a distance of 454.72 feet to a found  
5/8" rebar;

N.59°27'01"E. a distance of 605.65 feet to a set  
1/2" rebar with PS 26228 cap;

Thence S.30°15'21"E. leaving said centerline a distance  
of 78.31 feet to a set 1/2" rebar with PS 26228 cap;

Thence N.49°16'26"E. a distance of 44.12 feet to a set  
1/2" rebar with PS 26228 cap;

Thence N.53°28'20"E. a distance of 86.15 feet to a set  
1/2" rebar with PS 26228 cap;

Thence N.57°40'14"E. a distance of 86.15 feet to a set  
1/2" rebar with PS 26228 cap;

Thence N.60°09'01"E. a distance of 1020.00 feet to a  
set 1/2" rebar with PS 26228 cap;

Thence N.62°09'32"E. a distance of 92.25 feet to a set  
1/2" rebar with PS 26228 cap;

Thence N.66°21'50"E. a distance of 92.24 feet to a set  
1/2" rebar with PS 26228 cap;

Thence N.70°34'10"E. a distance of 92.23 feet to a set  
1/2" rebar with PS 26228 cap;

Thence 74°46'32"E. a distance of 92.22 feet to a set  
1/2" rebar with PS 26228 cap;

Thence N.77°58'49"E. a distance of 39.50 feet to a set  
1/2" rebar with PS 26228 cap;

Thence N.60°24'39"E. a distance of 55.31 feet to a set  
1/2" rebar with PS 26228 cap;

Thence a distance of 121.01 feet along a curve to the  
right having a delta of 54°28'52", radius of 130.00 feet and  
chord bearing & length of N.21°48'33"E. 119.01 feet to a set  
1/2" rebar with PS 26228 cap;

Thence N.49°02'46"E. a distance of 222.95 feet to a 1/2" rebar with PS 26228 cap set for the northeast corner, a point on the westerly right-of-way of Trails Boulevard;

Thence along the westerly right-of-way of said Trails Boulevard as follows:

S.40°55'51"E. a distance of 246.23 feet to a set 1/2" rebar with PS 26228 cap;

A distance of 366.97 feet along a curve to the right having a delta of 66°31'19", radius of 316.07 feet and chord bearing & length of S.07°40'12"E. 346.70 feet to a set 1/2" rebar with PS 26228 cap;

S.71°40'51"E. a distance of 98.74 feet to a found 5/8" rebar with 2" PS 5840 cap;

A distance of 73.30 feet along a curve to the right having a delta of 20°00'00", radius of 210.00 feet and chord bearing & length of S.61°40'51"E. 72.93 feet to a set 1/2" rebar with PS 26228 cap;

S.51°40'51"E. a distance of 482.31 feet to a set 1/2" rebar with PS 26228 cap;

A distance of 194.78 feet along a curve to the right having a delta of 36°00'00", radius of 310.00 feet and chord bearing & length of S.33°40'51"E. 191.59 feet to a set 1/2" rebar with PS 26228 cap;

S.15°40'51"E. a distance of 172.90 feet to a set 1/2" rebar with PS 26228 cap;

A distance of 209.86 feet along a curve to the left having a delta of 15°58'37", radius of 752.58 feet and chord bearing & length of S.23°40'10"E. 209.18 feet to a set 1/2" rebar with PS 26228 cap;

S.31°39'28"E. a distance of 480.29 feet to a set 1/2" rebar with PS 26228 cap;

A distance of 36.94 feet along a curve to the right having a delta of 105°50'19", radius of 20.00 feet and chord bearing & length of S.05°25'23"W. 31.91 feet to a 1/2" rebar with PS 26228 cap set for an easterly corner at a point on the westerly right-of-way of U. S. Highway 160;

Thence along the westerly right-of-way of said U. S. Highway 160 as follows:

A distance of 628.46 feet along a curve to the left having a delta of 12°21'13", radius of 2914.79

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feet and chord bearing & length of S.36°07'49"W.  
627.25 feet to a set 1/2" rebar with PS 26228 cap;

S.29°57'13"W. a distance of 1871.10 feet to a 1/2"  
rebar with PS 26228 cap found at the southeast  
corner;

Thence S.87°55'32"W. leaving said U. S. Highway 160 a  
distance of 1480.17 feet to the point of beginning.

Containing 372.26 acres, more or less.

IT IS THE INTENTION OF THE DECLARANT THAT THE LEGAL  
DESCRIPTION OF THE PROPERTY HEREBY SUBVEYED IS THE SAME AS THAT  
PROPERTY DESCRIBED ON EXHIBIT "A" TO RESOLUTION 95-2 VACATING CHRIS  
MOUNTAIN VILLAGE AT PAGOSA RECORDED JULY 14, 1995 AS RECEPTION NO.  
1995004417.

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