

AMENDED DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
MILL CREEK MEADOWS RANCH

THIS AMENDED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR MILL CREEK MEADOWS RANCH is made pursuant to Article 11, Section 11.02 B. of the Declaration of Covenants, Conditions, and Restrictions for Mill Creek Meadows Ranch this 16 day of September 2000, by the required percentage of the owners of lots on Mill Creek Meadows Ranch. The original Declaration of Covenants, Conditions, and restrictions for Mill Creek Meadows Ranch were made by W. Thomas Lunner, and Larry A. Carter (herein "Declarant"), and is intended to be superseded by this Amended Declaration. Those paragraphs which refer to Declarant have simply been adopted from the original Declaration to the extent that they do not differ from this Amended Declaration.

ARTICLE 1
RECITALS

1.01 Property Covered. The real property (the "Property") covered by this Amended Declaration is described as: Mill Creek Meadows Ranch at Archuleta County, Colorado, more fully described as follows:

PORTIONS OF SECTIONS 16, 17, 20 & 21, IN T.35N., R.1W., N.M.P.M., ARCHULETA COUNTY, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE 1/4 CORNER OF SAID SECTIONS 16 & 21, THENCE N0036°19'E 1276.90 FEET, THENCE N8711°40'W 2589.70 FEET, THENCE N0108°36'E 75.84 FEET TO THE CENTER LINE OF ARCHULETA COUNTY ROAD NO. 307 (MILL CREEK ROAD 60 FEET WIDE); THENCE ALONG THE FOLLOWING COURSES OF SAID CENTERLINE: N7222°59'W 129.41 FEET, N5240°00'W 471.18 FEET, N5528°42'W 177.80 FEET, N7142°22'W 78.71 FEET, N8935°52'W 138.16 FEET, S7348°51'W 231.30 FEET, S8500°39'W 1072.90 FEET, S4642°40'W 183.35 FEET, S4042°20'W 319.57 FEET, S3442°35'W 557.52 FEET, S6134°57'W 90.96 FEET, S7950°14'W, 102.43 FEET, N7623°13'W 184.81 FEET, N5410°44'W 164.58 FEET, N3955°06'W 464.34 FEET, N7516°50'W 299.91 FEET, THENCE LEAVING SAID CENTERLINE S0149°58'W 1350.08 FEET, S0021°09'W 2549.43 FEET, THENCE S8746°54'E 1226.34 FEET, THENCE S8852°15'E 885.90 FEET, THENCE S0038°14'W 55.00 FEET, THENCE S8919°25'E 1781.00 FEET, THENCE S8815°15'E 160.53 FEET, THENCE N2909°14'W 161.69 FEET, THENCE N1617°15'E 154.06 FEET, THENCE N0508°50'W 94.37 FEET, THENCE N2146°22'E 348.01 FEET, THENCE N1018°54'E 109.02 FEET, THENCE N4235°34'W 234.10 FEET, THENCE N1207°28'W 113.85 FEET, THENCE N2133°38'W 240.54

Daniel Anderson
667 Gonzalez Rd
Santa Fe, NM 87501



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FEET, THENCE S8818'36"E 1300.03 FEET, THENCE N0039'05"E 1329.46 FEET, THENCE S8821'55"E 1300.35 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCELS SHOWN ON SURVEY PLAT RECORDED IN ARCHULETA COUNTY RECORDS NO. S259 AND MAP OF MILL CREEK MEADOWS RANCH.

1.02 Purpose. Declarant hereby subjects all the Property to certain protective covenants, conditions and restrictions for the benefit of the Property and present and future owners thereof. This Declaration of Covenants, Conditions, and Restrictions is intended to preserve the value, desirability and attractiveness of the Property, to create and protect the highest quality development of the Property and to insure property maintenance thereof.

1.03 Goals. The property provides many unique natural resources including its streams, meadows, forests, and wildlife populations. It has been designed and will be managed to preserve and enhance these natural resources for the benefit of all Lot owners.

ARTICLE 2 DECLARATION

2.01 Scope of Declaration. Declarant hereby declares that all of the Property, and each Lot therein, is and shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved subject to the following covenants, conditions and restrictions, easements, and equitable servitudes which are for the purpose of protecting the value and desirability of, and which shall run, with the Property. The covenants, conditions and restrictions contained in this Declaration shall:

A. Be binding upon all persons having or acquiring any right, title, or interest in or to the Property or any Lot, and their successors or assigns; and

B. Inure to the benefit of every portion of the Property any Lot or any interest therein; and

C. Inure to the benefit and be binding upon each grantee and his respective successors in interest; and

D. Be enforced by any Owner or grantee or his successors in interest or by the Mill Creek Meadows Ranch Homeowners Association.

2.02 Rights of Declarant. Deleted.

2.03 Other Restrictions. The covenants, conditions, and restrictions contained in this Declaration are IN ADDITION TO any other land use restrictions, zoning ordinances, laws, rules, and decisions of other governmental authorities and governmental and judicial authorities including Archuleta County. This Declaration does not supplant any such land use restrictions which are enforced, and must be satisfied, independent of this Declaration.

ARTICLE 3 DEFINITIONS

Unless the context requires otherwise, the following words and phrases when used in these Restrictions shall have meanings hereinafter specified:

3.01 **ARTICLES** shall mean the Articles of Incorporation of the Association which have been or shall be filed in the office of the Secretary of the State of Colorado, as amended from time to time.

3.02 **ASSESSMENTS** shall mean those payments required of the Mill Creek Meadows Ranch Homeowners Association, Inc. members, including regular and special assessments as further defined in this Declaration.

3.03 **ASSOCIATION** shall mean the Mill Creek Meadows Ranch Homeowners Association, Inc., the non-profit Colorado corporation described in this Declaration, its successors and assigns.

3.04 **ASSOCIATION EASEMENTS** shall mean easements granted to Owners and the Association for the benefit of its members.

3.05 **ASSOCIATION RULES** shall mean the rules and regulations of the Association as amended from time to time.

3.06 **BENEFICIARY** shall mean a mortgagee under a mortgage or a beneficiary or holder, which mortgage or deed of trust encumbers parcels of real property on the Property.

3.07 **BOARD** shall mean the Board of Directors of the Mill Creek Meadows Ranch Homeowners Association.

3.08 **BYLAWS** shall mean the Bylaws of the Association which have been or shall be adopted by the Board, as such Bylaws may be amended from time to time.

3.09 **DECLARANT** shall mean the owners of lots within Mill Creek Meadows Ranch who joined in the making of this Amended Declaration.

3.10 **DECLARATION** shall mean this instrument as it may be amended and supplemented from time to time.

3.11 **DEED OF TRUST** shall mean a mortgage or deed of trust, as the case may be.

3.12 **IMPROVEMENT** shall mean all things contracted upon, above, or below the property and appurtenances thereto of every type and kind, including but not limited to buildings, outbuildings, barns, garages, carports, roads, driveways, parking areas, fences, corrals, walls, stairs, decks, landscaping, windbreaks, poles, signs, irrigation devices, antennae, sport courts, satellite dishes, or equipment, whether temporary or permanent, fixed or removable. Improvement shall also mean any



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alteration, excavation, or fill for any purpose to any Lot, vegetation, diversion dam, stream, spring, seep, ditch, fill or other device.

3.13 LOT shall mean one or more of the Lots: 1, 2, 3, 4, 5A, 5B, 6, 7, 8, 9, 10A and 10B of the subject Property.

3.14 MEMBER shall mean any person who is a member of the Association.

3.15 MORTGAGE shall mean any mortgage or deed of trust or other conveyance of a Lot to secure the performance of an obligation which will be void and reconveyed upon the completion of such performance.

3.16 NOTICE AND HEARING shall mean thirty (30) days notice and public hearing before the Board at which time the Owner concerned shall have an opportunity to be heard in person or by counsel at Owner's expense.

3.17 OWNER shall mean the person or persons or other legal entity or entities, holding a fee simple interest in a Lot or, as the case may be, the purchaser of a Lot under an executory contract of sale (but excluding those having such interest merely as security for the performance of an obligation). For the purposes of voting, all of the persons and entities holding a fee simple interest in a lot shall collectively be considered one owner, so that there will be only one vote per lot. For the purposes of Articles 4 and 5 only, unless the context otherwise requires, Owner shall also include the family, invitees, licensees, and lessees of any Owner.

3.18 RESTRICTIONS shall mean this Declaration, as said Declaration may be amended from time to time, and the Rules from time to time in effect.

3.19 SITE PLAN shall mean the Site Plan.

3.20 SUPPLEMENTAL DECLARATION shall mean a supplemental declaration of covenants, conditions, and restriction which shall be recorded for the purposes of setting forth additional covenants, conditions, and restrictions.

ARTICLE 4 GENERAL AND SPECIFIC RESTRICTIONS

4.01 No Further Subdivision. No Lot may be further subdivided into increments less than thirty five acres. No easement or other interest may be granted in any increments less than thirty five acres without prior, specific, written approval of the Board.

4.02 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property so as to render any portion thereof unsanitary, unsightly, offensive, or detrimental to any other Lot or to its occupants. No noise, including but not limited to, created by people, animals, equipment, electronic device, audio receiver, television, stereo, musical instrument, and/or

machinery, or any other audible nuisance shall be permitted which is offensive or detrimental to any other Lot in the vicinity thereof or to its occupants.

4.03 Watercourses, Irrigation Ditches and Drainage. All watercourses, irrigation ditches, and drainages may be improved or altered from time to time by property owners with the written consent of the Mill Creek Meadows Ranch Homeowners Association. Any alteration, improvement, or interference with any watercourse, ditch or drainage shall also comply with applicable local, state, and federal regulations and any contracts or written agreements relating to such actions.

4.04 Sewage and Water Supply Facilities. All residential structures on any lot shall be provided, at the owners expense, with adequate sewage treatment facilities and wells including septic tank and drain field. Individual sewage and water systems shall be permitted on any Lot provided such system is designed, located, constructed, and equipped in accordance with the requirements, standards and recommendations of the Health District and all applicable governmental authorities. No septic tank or drain field shall be located within 100 feet of a watercourse, irrigation ditch, drainage or well unless approved by the Health District.

4.06 No Hazardous or Offensive Activities. No activities shall be conducted on the Property and no Improvements constructed on any Lot which might be unsafe or hazardous to any person or property. No discharge of firearms or bows and no hunting with firearms or bows will be allowed on Mill Creek Meadows Ranch, except as is necessary for pest control..

4.07 Unsightly Articles. No unsightly articles shall be visible from any Lot such as abandoned automobiles or abandoned farm equipment. Refuse, garbage, and trash shall be kept at all times in a covered container and appropriately screened from view. No lumber, grass, shrub or tree clippings, compost piles or plant waste, metals, bulk materials, unused building material, or refuse or trash or other materials shall be kept, stored or allowed to accumulate on any Lot except if appropriately screened from view.

4.08 No Temporary Structures. No temporary structure or Improvement shall be placed upon any Lot. However, a well built temporary structure or trailer will be permitted to be used during construction on a Lot, provided that it is located on the Lot on which construction is occurring and it shall be removed within fourteen (14) days of substantial completion of the Improvement. With the exception of the existing trailer on lot number four which will be allowed to remain.

4.09 No Mining or Drilling. No property shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, or earth, except that the Association may, by appropriate permit, grant, license or easement, allow the drilling of wells for the extraction of water for domestic use and landscape irrigation is such use is in accordance with applicable governmental authorities.

4.10 Noxious Weeds. Every Owner, whether or not his lot contains any Improvements, shall take all action necessary to restrict the growth of, and to remove, noxious weeds and grasses in accordance with the applicable local, state or federal requirements. Whenever practical, weed control actions shall not be chemically dependent but shall utilize plantings and other means of



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control. The control and maintenance of noxious weeds using chemical control methods shall be in accordance with U.S. EPA label restrictions and shall be applied by an individual experienced in chemical application and safety requirements.

4.11 Violation of Property Restrictions. There shall be no violation of the Association Rules. If and Owner, his family, or any licensee, lessee, or invitee is in violation thereof, the Board or any Owner may, in addition to any other legal remedies it may have, impose a special assessment upon such person of not more than One Hundred Dollars (\$100.00) per day for each violation and/or may suspend the right of such person to use the Association Easements, under such conditions the board may specify, for a period not to exceed one (1) year for each violation. Before invoking any such assessment or suspension, the Board shall give such person reasonable notice of the violation and a reasonable opportunity to cure the violation and/or to be heard regarding the violation and any assessment or suspension of rights. Any assessment imposed which remains unpaid for a period of ten (10) days or more, shall become a lien upon the Owner's Lot and the Improvements thereon upon its inclusion in a notice of assessment as hereinafter set forth.

4.12 Exemption of Declarant. Deleted.

4.14 Timber and Existing Vegetation Removal. Timber and "existing vegetation" removal on individual Lots shall be carefully monitored by the Board. Any homeowner wishing to remove in excess of 10 percent of the timber or existing vegetation for building construction, driveway corridors, and view corridors shall be required to submit a plan to the Board for prior approval. In addition, homeowner may be required to reforest in a more suitable location.

ARTICLE 5 PERMITTED USES AND RESTRICTIONS

A. Single Family Residence. Each Lot may contain a single family residential structure (hereinafter "residence") designed to accommodate no more than a single family, domestic help, and occasional non-commercial guests, a detached garage if necessary, and non-commercial guest housing or domestic help quarters. In no event may any Lot be improved with more than two(2) residential structures, plus one detached garage, all of which must be within a construction site meeting the standards of the Association Rules, the By Laws, Resolutions of the Board, and the rules and rulings of the Architectural Review Committee.

B. Ranch Buildings. Each Lot may contain barns and outbuildings not intended or used for residential purposes..

C. Fences. All perimeter fencing shall be any well constructed, functional fencing with a natural (rustic) look; white fencing, whether wood or PVC, is not allowed. This provision may be amended from time to time by the Board.

ARTICLE 6 MILL CREEK MEADOWS RANCH HOMEOWNERS ASSOCIATION

6.01 Association. The Association is a non-profit Colorado corporation charged with the duties and vested with the powers prescribed by law and set forth in its Articles, Bylaws, and this Declaration. Neither the Articles nor the Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

6.02 Membership.

A. Qualifications. Each Owner, by virtue of being such an Owner and for so long as he is such an Owner, shall be deemed a member of the Association

B. Transfer of Membership. The Association membership of each Owner shall be appurtenant to said Lot and shall not be transferred, pledged, or alienated in any way except upon the transfer of legal and equitable title to said Lot, and then only to the transferee of such title. Any attempt to make a prohibited transfer shall be void. Any transfer of legal and equitable title to said Lot shall operate automatically to transfer said membership to the new owner thereof.

6.03 Voting.

A. Number of Votes. All Owners shall be entitled to one vote for each Lot owned. The Owner of each Lot may, by notice to the Association and signed proxy, designate a person (who need not be an Owner) to exercise the vote for such Lot. Said proxy shall be revocable at any time by notice to the Association by the Owner. Such proxy may be granted or revoked by the guardian of an Owner's estate or by his conservator, or in the case of a minor having no guardian, by the parent entitled to his custody, or during the administration of an Owner's estate, by his personal representative or administrator where the latter's interest in said property is subject to administration in his estate.

B. Meetings of Owners. There shall be a meeting of the Owners on the 15th of June each year at 6:00 o'clock p.m. (Not more than thirty (30) days before or after such date) as may be designated by notice of the Board given to the Owners by depositing the same in the United States mail, postage prepaid, not less than seven (7) days nor more than sixty (60) days prior to the date fixed for said meeting. A special meeting of the Owners may be called at any reasonable time and place by notice of the Board or by the Owners having twenty percent (20%) of the total votes and delivered to all other Owners not less than fifteen (15) days prior to the date fixed for said meeting. The presence at any meeting, in person or by proxy, of the Owners entitled to vote at least a majority of the total votes shall constitute a quorum.

The President of the Association (or the Vice President in his absence) shall act as chairman of all meetings of the Owners and the secretary of the Association (or an assistant secretary thereof in his absence) shall act as secretary of all such meetings. Members of the Board shall be elected by cumulative voting. At each annual meeting, the Board shall present a written accounting of the

Maintenance Fund, itemizing receipts and disbursements for the preceding calendar year and the allocation thereof to each Owner. Within ten (10) days after the date set for each annual meeting, or as soon thereafter as practical, the assessment statement shall be delivered to the Owners not present at said meeting.

D. Cumulative Voting. In any election of the members of the Board, every Owner entitled to vote at such an elections shall have the right to cumulate his votes and give one candidate, or divide among any number of the candidates, a number of votes equal to the number of votes to which that Owner is entitled in voting upon other matters multiplied by the number of directors to be elected. The candidates receiving the highest number of votes, up to the number of the Board members to be elected, shall be deemed elected.

6.04 Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint, in accordance with the Articles and the Bylaws, as the same may be amended from time to time. Remainder deleted.

6.05 Powers and Duties of the Association.

A. Powers. The Association shall have all the powers of a non-profit corporation organized under the general non-profit corporation laws of the State of Colorado subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws, and this Declaration. It shall have the power to do any and all lawful things which may be authorized, required, or permitted to be done by the Association under this Declaration, the Articles, and the Bylaws, and to do and perform any and all acts which may be necessary or proper for, or incidental to the property management and operation of the Association Easements and the performance of the other responsibilities herein assigned including without limitation:

(1) **Assessments.** The power to levy Assessments on the Owners Lots and to force payment of such Assessments, all in accordance with the provision of this Declaration.

(2) **Right of Enforcement.** The power and authority from time to time in its own name, on its own behalf, or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or the Articles or the Bylaws, including the Association rules adopted pursuant to this Declaration, and to enforce by mandatory injunction or otherwise.

(3) **Delegation of Powers.** The authority to delegate its power and duties to committees, officers, employees, or to any person, firm or corporation to act as manager, and to contract for the maintenance, repair, replacement and operation of Association Easements. Neither the Association nor the members of its Board shall be liable for any omission or improper exercise by the manager of any such duty or power so delegated.

(4) **Association Rules.** The power to adopt, amend and repeal by majority vote of the Board such rules and regulations as the Association deems reasonable (the Association Rules). The Association Rules shall govern the use of Association Easements including, but not limited to,

the private roads by the Owners, by the families of the Owners, or by an invitee, licensee, lessee, or contract purchaser of an Owner; provided, however, that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or the Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended, or repealed, shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery and posting, said Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event of any conflict between any such Association rules and any other provisions of this Declaration, or the Articles or Bylaws, the provisions of the Association rules shall be deemed to be superseded by the provision of this Declaration, the Articles or the Bylaws to the extent of any such inconsistency.

(5) Emergency Powers. The Association or any person authorized by the Association may enter upon any Lot in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which it is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable and any damage caused thereby shall be repaired by the Association.

(6) Licenses, Easements and Rights-of-Way. The power to grant and convey to any third party such licenses, easements, and rights-of-way in, on or under any non-exclusive Association Easement as may be necessary or appropriate for the orderly maintenance, preservation and enjoyment thereof and for the preservation of the health, safety, convenience and welfare of the Owners, for the purpose of constructing, erecting, operating, or maintaining:

(a) Underground lines, cables, wires, conduits or other devices for the transmission of electricity for lighting, heating, power, telephone, and other purposes;

(b) Public sewers, storm drains, water drains, and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and

(c) Any similar public or quasi-public improvements or facilities.

(7) Legal and Accounting Services. To retain and pay for legal and accounting services or proper for the operation of the Association, enforcement of the Restrictions and the Association Rules, or performance of any other duties or rights of the Association.

B. Duties of the Association. In addition to power delegated to it by the Articles, without limiting the generality thereof, the Association or its agent, if any, shall have the obligation to conduct all business affairs of common interest to all Owners, and to perform each of the following duties:

(1) Operation Maintenance of Association Easements. Operate, maintain, and otherwise manage or provide for the operation, maintenance and management of Association Easements including the repair and replacement of property damaged or destroyed by casualty loss and all other property acquired (by easement or otherwise) by the Association. The Board, on behalf of the Association, may contract for the operation, management, and maintenance of Association

Easements. The Association shall also take such actions and arrange for such maintenance as may be necessary or desirable for the upkeep of landscape, watercourses, roads, and all other easements.

(3) **Insurance.** Unless otherwise determined by the Board obtain, from reputable insurance companies authorized to do business in the State of Colorado, and maintain in effect the needed policies of insurance:

(4) **Rule Making.** Make, establish, promulgate, amend and repeal the Association Rules.

(5) **Enforcement of Restrictions and Rules.** Perform such other acts, whether or not expressly authorized by this Declarant, as may be reasonably necessary to enforce any of the provisions of this Declaration and the Association Rules.

(6) **Roads.** To snowplow and maintain, or provide for the snowplowing and maintenance of all roads and bridges which are the subject of Association Easements and to keep all Improvements in good order and repair, as is necessary to maintain such easements in a neat and usable condition and to participate in any joint maintenance arrangement necessary to maintain access roads to the Property. Parcels numbered two, ten and one are excluded from any snowplow and maintenance costs in relation to the road.

6.06 Board Rules. The Board may adopt such rules as it deems proper to enable it to properly perform its duties hereunder. A copy of said Rules, as they may from time to time be adopted, amended or repealed, may (but need not) be mailed or otherwise delivered to each Owner of record. Upon such mailing, delivery or recording, said Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

6.07 Personal Liability. No member of the Board, or any committee of the Association, or any officer of the Association, or the Director, or any member of the Architectural Review Committee, or the manager of the Association, if any, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss, or prejudice suffered or claimed on the account of any act, omission, error, or negligence of the Association, the Board, the manager, if any, or any other representative or employee of the Association, the Declarant or the Architectural Review Committee, or any other committee, or any officer of the Association, or the Declarant, provided that such person has, upon the basis of such information as may be possessed by him, acted in good faith without willful or intentional misconduct.

6.08 Budgets and Financial Statements. Financial Statements for the Association shall be regularly prepared and copies shall be distributed to each Owner of the Association as follows:

6.09 Amendment. The provisions of Sections 6.01, 6.02 and 6.03 hereof may only be amended with the unanimous vote or written consent of all of the Owners entitled to vote.

ARTICLE 7 ASSESSMENTS

7.01 Covenant to Pay Assessments. Each owner hereby, and by acceptance of a deed to a Lot, covenants and agrees to pay when due all Regular and Special Assessments or charges made by the Association. Such Assessments, together with interest, costs and reasonable attorney's fees which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the Property against which each such Assessment is made. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Property at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to his successor in title unless expressly assumed by them.

7.02 Regular Assessments. Regular Assessments against each Lot shall commence on the first day of the first month following the closing of the sale of a Lot ("Initiation Date"). From and after the Initiation Date until January 1 of the calendar year immediately following the Initiation Date, there shall be assessed against each Lot a Regular Assessment per Lot as determined by the Association.

Not less than thirty (30) days nor more than sixty (60) days prior to the beginning of each calendar year following the Initiation Date, the Board shall estimate the total amount of funds necessary to defray the expenses of the Association and shall assess the Owner of each Lot subject therein in December of each year for the following year. Said Assessment shall be prorated in accordance with the total number of Lots which are subject to Assessment by such Association. Regular Assessments shall include an amount allocated to an adequate reserve fund which is to be established for maintenance, repairs, and replacement of the Association Easements. The entire Regular Assessment shall be paid annually by each Owner of a Lot within thirty (30) days of the mailing date of the Assessment.

7.03 Special Assessments.

A. In the event that the Board shall determine that the Regular Assessment for a given calendar year is or will become inadequate to meet the expenses of such Association for any reason including, but not limited to, costs of maintenance and unexpected repairs upon the Association Easements, the Board thereof shall determine the approximate amount necessary to defray such expenses and levy a Special Assessment. The Board may, at its discretion, prorate such Special Assessment over the remaining months of the calendar year or levy such Assessment immediately against each Lot.

B. Every Special Assessment shall be levied upon the same basis as that prescribed for the levying of Regular Assessments.

7.04 Uniform Rate of Assessment. Unless otherwise specifically provided herein, Regular and Special Assessments must be fixed at a uniform rate of all Owners.

7.05 Assessment Period. The Regular Assessment period shall commence on January 1 of each year and terminate December 31 of such year; provided, however, the initial Regular Assessment period shall commence on the Initiation Date and terminate on December 31 of the year in which the Initiation Date occurs. The first Regular Assessment shall be adjusted to the number of months remaining in the calendar year to be payable in equal monthly installments.

7.06 Notice and Assessment Due Date. Ten (10) days prior written notice of Regular and Special Assessments shall be sent to the Owner of every Lot subject thereto. The due dates for Regular Assessments and Special Assessments shall be the first day of each month unless some other due date is established by the Board of the Association making the Assessment. Each monthly installment of the Regular Assessment or Special Assessment shall become delinquent if not paid within ten (10) days after the levy thereof. There shall accrue with each delinquent monthly installment and Special Assessment, a late charge of Twenty-Five (\$25.00) Dollars, together with interest at the maximum rate permitted by law calculated from the date of delinquency to and including the date full payment is received by the Association. The Association making the Assessment may bring an action at law against the Owner personally obligated to pay the same to foreclose the lien against his lot as is more fully provided herein. Each Owner is personally liable for said Assessment and no Owner of a Lot may exempt himself from liability for his contribution by a waiver of the use or enjoyment of any of the Association Easements or by abandonment of his Lot.

7.07 Special Notice and Quorum Requirements. Notwithstanding anything to the contrary contained in either the Bylaws or the Articles, written notice of any meeting called for the purpose of either levying a Special Assessment pursuant to this Article, or for the purpose of obtaining a membership vote in connection with an increase in the Regular Assessments pursuant to this Article, shall be sent to all Owners of such Association not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. Owners (or their proxies) of Lots totaling 66-2/3% of the total voting power of such Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be Owners (or their proxies) of Lots totaling 50% of the total voting power of the Association. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

ARTICLE 8 ENFORCEMENT OF ASSESSMENTS; LIENS

8.01 Right to Enforce. The right to collect and enforce the Assessments made by the Association is vested in the Association. Each Owner of a Lot upon becoming an Owner of such Lot is and shall be deemed to covenant and agree to pay each and every Assessment provided for in this Declaration and agrees to the enforcement of all Assessment in the manner herein specified. In the event an attorney or attorneys are employed for the collection of any Assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay reasonable attorney's fees or any other relief or remedy obtained against said Owner. The Board or its authorized representative may enforce the obligations

of the Owners to pay the Assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity or such Board may exercise the power of sale pursuant hereto to enforce the liens created hereby. A suite to recover a money judgment for an unpaid Assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided for.

8.02 Assessment Lien.

A. Creation. There is hereby created a claim of lien with power of sale on each and every Lot to secure payment of any and all Assessments levied against any and all Lots in the Property pursuant to this Declaration, together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association making the Assessment in connection therewith, including reasonable attorney's fees. All sums assessed in accordance with the provisions of this Declaration shall constitute a lien on such respective Lots upon recording of a claim of lien with the County Recorder. Said lien shall be prior and superior to all other liens or claims created subsequent to the recording of the notice of delinquency and claim of lien except for tax liens for real property taxes on any Lot and Assessments on any Lot in favor of any municipal or other governmental assessing body which, by law, would be superior thereto.

B. Claim of Lien. Upon default of any Owner in the payment of any Regular or Special Assessment required hereunder, the Association may cause to be recorded in the Office of the County Recorder in the County in which the Property is situated a claim of lien. Said claim of lien shall state the amount of such delinquent sums and other authorized charges (including the cost of recording such notice), a sufficient description of the Lot against which the same has been assessed, and the name of the record owner thereof. Each delinquency shall constitute a separate basis for a notice and claim of lien, but any number of defaults may be included within a single notice and claim of lien. Upon payment to the Association of such delinquent sums and charges in connection therewith or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction and relief of such delinquent sums and charges. The Association may demand and receive the cost of recording of such release before recording same. Any purchaser or encumbrance, acting in good faith and for value, may rely upon such notice of satisfaction and relief as conclusive evidence of the full satisfaction of the sums paid in the notice of delinquent sums.

8.03 Method of Foreclosure. Such lien may be foreclosed by appropriate action in court or by sale by Association, its attorney or other person authorized to make the sale, such sale to be conducted in accordance with the provisions of the Colorado Code applicable to the exercise of powers of sale permitted by law. The Board is hereby authorized to appoint its attorney, any officer or Director of the Association, or any title company authorized to do business in Colorado as trustee for the purpose of conducting such power of sale foreclosure.

8.04 Required Notice. Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created by recordation of the notice of delinquency and claim on, whether judicially by power of sale or otherwise, until the expiration of thirty (3) days after a copy of such claim of lien has been deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Lot described in such notice of delinquency and claim of lien, and a copy thereof is recorded by the Association in the Office of the County Recorder in the county in which the Property is located.

8.05 Subordination to Certain Trust Deeds. The lien of the Association provided for herein in connection with a given Lot shall not be subordinate to the lien of any deed of trust or mortgage except the lien of a first deed of trust or first mortgage given and made in good faith and for value that is of record as an encumbrance against such given Lot prior to the recordation of a claim of lien for the Assessments. Except as expressly provided in this Article with respect to a first mortgagee who acquires title to a Lot, the sale or transfer of any Lot shall not affect the Assessment lien provided for herein, nor the creation thereof by the recordation of a claim of lien, on account of the Assessments becoming due whether prior to, on, or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent Assessments as provided for in this Declaration.

8.06 Rights of Mortgagees. Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate to defeat and render invalid the rights of the beneficiary under any deed of trust or mortgage upon a Lot made in good faith and for value, and recorded prior to the recordation of such amendment, provided that after the foreclosure of any such deed of trust such Lot shall remain subject to this Declaration as amended.

ARTICLE 9 INSPECTION OF ASSOCIATION'S BOOKS AND RECORDS

9.01 Owner's Right of Inspection. The membership register, books of account and minutes of meetings of the Board and committees of the Association shall be made available for inspection and copying by any Owner or by his duly appointed representatives, at any reasonable time and for a purpose reasonably related to his interest as an Owner at the office of the Association or at such other place within the Property as the Board of such Association shall prescribe.

9.02 Rules Regarding Inspection of Books and Records. The Board shall establish reasonable rules with respect to:

- A. Notice to be given to the custodians of the records by the persons desiring to make the inspection.
- B. Hours and days of the week of such inspection.
- C. Payment of the cost of reproducing copies of documents requested pursuant to this Article.

9.03 Director's Right of Inspection. Every current member of the Association Board of Directors shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association of which he is a Director, and the physical properties owned or controlled by such Association. The right of inspection by a Director includes the rights to make extracts and copies of documents.

ARTICLE 10 EASEMENTS

10.01 Grant of Easements. Notwithstanding anything expressly or implied contained herein to the contrary, this Declaration shall be subject to all easements previously granted by the previous Declarant including for the installation and maintenance of utilities and drainage facilities that were required for the development of the Property, except such easements as were made temporary either by their express terms or by logical application. Remainder deleted.

10.02 Utility Easements. Underground electrical and telephone utilities have been installed within the 50' roadway right of way by the Declarant. The rights and duties of the Owners of the Lots within the Property with respect to utilities shall be governed by the following:

A. Wherever utility house connections if any, are installed within the Property, which connections or any portions thereof lie in or upon Lots owned by other than the Owners of the Lot served by said connections, shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter upon the Lots or to have their agent enter upon the Lots within the Property in or upon which said connections or any portion thereof lie, to repair, replace, and generally maintain said connections as and when the same may be necessary.

B. Whenever utility house connections, if any, are installed within the Property which connections serve more than one Lot, the Owner of each Lot served by said connections shall be entitled to full use and enjoyment of such portions of said connections as service his Lot.

10.03 Disputes as to Sharing of Costs. In the event of a dispute between Owners with respect to the repair or rebuilding of said utility connections or driveways, or with respect to the sharing of the costs thereof, then upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board of Directors, who shall decide the dispute and make an Assessment against any or all of the Owners involved, which Assessment shall be collected and enforced in the manner provided by this declaration.

10.04 Watercourse Easement. The Declarant hereby reserves for the benefit of the Association an easement for all watercourses, irrigation ditches, and drainages (or other bodies of water) and related pipes, pumps, and other related equipment over, across, and under all Lots and Association Easements owned by the Association to the extent reasonably required to protect the Association's water rights and to maintain and service the watercourses and irrigation system as existing or installed by Declarant on the Property or pursuant to plans and specifications approved by the Architectural Review Committee.

10.04 No Construction Within Easements. No improvement shall be made within any easement without the prior written approval of the Architectural Review Committee.

10.06 Greenbelt Easement. The Greenbelt is a corridor of land and water, as shown on the Site Plan, to be held in a conservation easement for the benefit of all Lot owners. The Greenbelt contains

environmentally sensitive lands including streams, wetlands, forest, and grass meadows that provide an access corridor to surrounding state, federal and private lands for wildlife and Owners.

ARTICLE 11 MISCELLANEOUS

11.01 Term. The covenants, conditions, and restrictions of this Declaration shall run until the year two thousand twenty five (2025) unless amended as herein provided. After such date, such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by at least three-fourths (3/4) of the Owners, and such written instrument is recorded with the Archuleta County Recorder.

11.02 Amendment.

A. By Owners. The provisions of this Declaration, other than this Article, may be amended by an instrument in writing signed and acknowledged by the president and secretary of the Association certifying that such amendment has been approved by the vote of at least three-fourths (3/4) of the Owners, and such an amendment shall be effective upon its recordation with the Archuleta County Recorder.

B. Rights of Beneficiary. Notwithstanding any other provision of this Declaration, no amendment of this Declaration shall operate to defeat and render invalid the rights of the Beneficiary under any recorded deed of trust or mortgage upon a Lot made in good faith and for value, provided that after the foreclosure of any such deed of trust or mortgage such Lot shall remain subject to this Declaration, as amended.

11.03 Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or the residence of such person, if no address has been given to the Association. Such addresses may be changed from time to time by notice in writing to the Association.

11.04 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform plan for the development and preservation of the Property in a manner designed to protect and enhance the aesthetic and economic value of the Property. This Declaration shall be construed and governed under the laws of the State of Colorado.

11.05 Enforcement and Nonwaiver.

A. **Right of Enforcement.** Except as otherwise provided herein, any Owner of any Lot within the Property shall have the right to enforce any or all of the provisions of the Restrictions upon any Lot within the Property and the Owners thereof.

B. **Violations and Nuisance.** Every act or omission whereby any provision of the Restrictions is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action by Declarant or the Association or any Owner or Owners of Lots within the Property.

C. **Violation of Law.** Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation, or use of any property within the Property, is hereby declared to be a violation of the Restrictions and subject to any or all of the enforcement procedures set forth in said Restrictions.

D. **Remedies Cumulative.** Each remedy provided by the Restrictions is cumulative and not exclusive.

E. **Nonwaiver.** The failure to enforce any of the provisions of the Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any of the provisions of said Restrictions.

11.06 Reservation of Easements. Declarant expressly reserves for the benefit of all the Property reciprocal easements of access, ingress and egress for all Owners to and from their respective Lots for installation and repair of utility services, for drainage or water over, across and upon adjacent Lots and Association Easements resulting from the normal use of adjoining Lots or Association Easements, and for necessary landscape and other maintenance. Such easement may be used by the Association and all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Property, for pedestrian walkways, vehicular access and such other purposes reasonably necessary for the use and enjoyment of a Lot or Association Easement.

ARTICLE 12 WATER RIGHTS

12.01 Common Element. The Board of Directors has received information that calls into question the information contained in this Article 12 regarding the description and identity of the water rights to which Mill Creek Meadows Ranch is entitled, including, but not limited to the names of the ditches. The information contained in this Article 12 will be left as it originally was until the Board's investigation is complete, at which time, this Article 12 will be revised.

The property which comprises Mill Creek Meadows Ranch has rights to 44 shares of water from the Park Ditch Company, a one-third interest in the Colton and Montroy Ditch resulting in 4.50 c.f.s., and all rights in the Charles W. Dowell Ditch and the Hallett Ditch, totaling approximately 2.003 c.f.s. These shares and rights shall be a common element of Mill Creek Meadows Ranch for

the benefit of all owners of Mill Creek Meadows Ranch. Said shares and rights shall be apportioned as set out in the Bylaws for the Mill Creek Meadows Ranch Homeowners Association, Inc..

12.02 Ownership of Shares. The water rights and shares described above shall be owned in the name of Mill Creek Meadows Ranch Homeowners Association, Inc. ("Association") for the benefit of all of the Owners of Mill Creek Ranch and in the proportions as shown in Section 12.01 above.

12.03 Voting of Shares. The shares and rights described in 12.01 above shall be voted by one (1) person named as representative for the Mill Creek Meadows Ranch Homeowners Association, Inc. in all matters which are put to a vote by the ditch Companies as described in Paragraph 12.01 above. The owners of the parcels in Mill Creek Meadows Ranch shall elect the representative to vote their shares or interests on their behalf. If the Owners are not in agreement as to how the shares or interests should be voted, the shares or interests may be split and voted in proportion to the wishes of the Owners by said representative.

12.04 Assessments. The Association shall make assessments for any and all costs or expenses related to the ownership of the water rights and interests described in Paragraph 12.01 above against the property owners in the proportions as set forth in Section 12.01 above. Such assessments shall be otherwise governed by the provisions of Article 7 above.

12.05 Maintenance and Repairs. The lateral ditches servicing the parcels shall be repaired and maintained by the Association. Expenses for such repair shall be paid by the Owners through assessments which shall be levied by the Association as set forth in paragraph 12.01 above.

IN WITNESS WHEREOF, the President and Secretary of the Mill Creek Meadows Ranch Homeowner's Association certify and acknowledge by their signatures below, that this Amendment to the Declaration of Covenants, Conditions, and Restrictions for Mill Creek Meadows Ranch has been approved by the vote of three fourths (3/4) of the Owners.

David H. Gunderson
President, Mill Creek Meadows Ranch
Homeowners Association

C. Vance Newell
Secretary, Mill Creek Meadows Ranch
Homeowners Association

Attest:

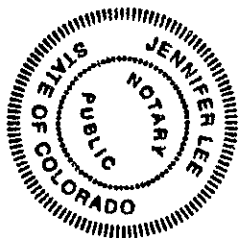
STATE OF COLORADO)
) ss.
COUNTY OF Archuleta

On this 7th day of May 2001, before me, the undersigned Notary Public in and for said state, personally appeared David H Gunderson and C Vance Newell, known or identified to me to be the persons whose name is

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subscribed to this Amended Declaration of Covenants, Conditions, and Restrictions for Mill Creek Meadows Ranch, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Jennifer Lee
Notary Public for Colorado

Residing at: 523 San Juan St
Commission Expires: 9-8-02