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**DECLARATION OF PROTECTIVE  
COVENANTS FOR CIMARRONA  
RANCH  
ARCHULETA COUNTY,  
COLORADO**


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**DECLARATION OF PROTECTIVE  
COVENANTS FOR CIMARRONA RANCH  
ARCHULETA COUNTY, COLORADO**

**1. DECLARATION - PURPOSES.**

1.1 **General Purposes.** Cimarrona, LLC, a Colorado limited liability company (hereafter sometimes referred to as "Cimarrona") is the owner of certain real property located in Archuleta County, Colorado, known as Cimarrona Ranch. Cimarrona intends to develop said property into Ranch Estates as a private ranch community. Cimarrona intends that owners, trustee beneficiaries, Mortgagees and any other persons or entities now or hereafter acquiring any interest in Cimarrona Ranch shall hold such interest subject to all the rights, privileges, obligations and restrictions set forth in this instrument. In addition, Cimarrona Ranch Property Owners Association has been created to perform certain obligations described herein and, if necessary, to own, hold, operate and manage property for the common benefit of all owners of Cimarrona Ranch.

1.2 **Declaration.** To further the purposes herein expressed: (a) Cimarrona, for itself, its successors and assigns, with respect to Cimarrona Ranch as defined and described in the Plat thereof recorded February 4, 1998 in the real estate records of Archuleta County, Colorado, under Reception No. 98000944, and (b) Cimarrona Ranch Property Owners Association, for itself, its successors and assigns, hereafter sometimes referred to as the "Association," hereby declare that all said land shall at all times be owned, held, used and conveyed subject to the terms, provisions, conditions and restrictions contained in this instrument, which terms, provisions, conditions and restrictions shall constitute covenants running with the land and shall be binding upon and inure to the benefit of Cimarrona and Cimarrona Ranch Property Owners Association as to their respective interests and to any person or legal entity acquiring an interest in Cimarrona Ranch.

**2. DEFINITIONS AND AREA DESIGNATIONS.**

2.1 **Agricultural Use Area** shall mean that area of each Ranch Estate that is outside of the Developable Area. The Agricultural Use Area shall be subject to the option of the Association to lease such property for agricultural purposes, including grazing of animals and the raising of agricultural products. Leases for the Agricultural Use Area and fencing and other limitations on the use of the Agricultural Use Area shall be accordance with Agricultural Use Area - Use and Lease Guidelines, as adopted by the Board of Directors from time to time in accordance with this Declaration.

2.2 **Allocated Interests** shall mean the Common Expenses liability and the votes in the Association allocated to each Ranch Estate, which interests are allocated as follows:

  
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- a. The Common Expenses liability for each Ranch Estate is calculated on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of Ranch Estates in Cimarrona Ranch as of the date of the calculation.
- b. One vote in the Association is allocated to each Ranch Estate in Cimarrona Ranch.
- c. The foregoing allocations may not discriminate in favor of Ranch Estates owned by the Declarant or an affiliate of the Declarant.
- d. If Ranch Estates are added to Cimarrona Ranch, (i) the Common Expenses liability for each Ranch Estate shall be reallocated on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of Ranch Estates in Cimarrona Ranch following the addition of such Ranch Estates, and (ii) one vote in the Association shall continue to be allocated to each Ranch Estate in Cimarrona Ranch following the addition of such Ranch Estates.

2.3 **Annexable Property** shall mean that real property which is not shown on the plat of Cimarrona Ranch but which may be annexed to Cimarrona Ranch in accordance with this Declaration. The real property which comprises the Annexable Property is described on Exhibit "A" attached. In the sole discretion of the Declarant all or portions of the Annexable Property may be annexed to Cimarrona Ranch in accordance with Section 8.9(x) below. Until such time as the Annexable Property is annexed to Cimarrona Ranch it shall not be subject to this Declaration and the restrictions or limitations contained herein.

2.4 **Annual Assessments** shall mean the charges levied and assessed each year against a Ranch Estate pursuant to Section 5.2 below.

2.5 **Articles** shall mean Articles of Organization and any amendments thereto for Cimarrona Ranch Property Owners Association, a Colorado non-profit corporation.

2.6 **Assessments** shall mean both Annual (which in this context shall mean regular) Assessments and Special Assessments.

2.7 **Association** shall mean the Cimarrona Ranch Property Owners Association, formed for the purpose of furthering the common interests of Owners of all Ranch Estates within Cimarrona Ranch.

2.8 **Board or Board of Directors** shall mean the governing Executive Board of the Association.

2.9 **Colorado Common Interest Ownership Act (CCIOA)** shall mean the Colorado Common Interest Ownership Act, § 38-33.3-101, et seq., which shall be known as "CCIOA".

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2.10 Common Expenses shall mean estimated and actual expenditures made or to be made by or on behalf of the Association, together with any allocations to reserve or sinking funds.

2.11 County shall mean Archuleta County, Colorado.

2.12 Declarant shall mean Cimarrona, LLC, a Colorado limited liability company ("Cimarrona") and any party designated as a successor or assign of the Declarant by written instrument duly recorded in the real property records of Archuleta County, Colorado, which instrument, to be effective, need only be signed by Cimarrona. Such instrument may specify the extent and portion of the rights or interest being assigned by Declarant, in which case Cimarrona shall retain all other rights of Declarant not so assigned. Unless otherwise provided hereunder, all privileges, rights, interests, entitlements, duties, obligations, functions and responsibilities of Declarant shall belong to and be carried out solely by Cimarrona. In this Declaration the term "Cimarrona" may be used interchangeably with the term "Declarant."

2.13 Declaration shall mean this Declaration of Declaration of Protective Covenants for Cimarrona Ranch as recorded in the real property records of Archuleta County, Colorado, and as may be amended from time to time.

2.14 Developable Areas shall mean those areas within a Ranch Estate upon which development activity may occur and which include building envelopes. Developable Areas shall be as approved pursuant to Sections 7.3 and 7.4 of this Declaration, with records of such approved areas to be maintained by the Association. Developable Areas shall not exceed five (5) acres on any individual Ranch Estate.

2.15 Design Review Committee, sometimes referred to as the DRC, shall mean either the Board of Directors or committee appointed by the Board of Directors of the Association for the purpose of reviewing and approving the design and construction of improvements or changes to lands within Cimarrona Ranch.

2.16 Design Review Guidelines shall mean those guidelines set forth in the Cimarrona Design and Construction Guidelines adopted by the Design Review Committee for the purpose of providing persons who desire to construct improvements on Ranch Estates with design and construction criteria guidelines.

2.17 Eligible Mortgage Holder shall mean the holder of any first priority Mortgage encumbering a Ranch Estate that has given written notice to the Association of said Mortgage. Such notice shall include a true copy of the Mortgage as recorded.

2.18 Cimarrona Ranch shall mean all the property shown on the Cimarrona Ranch Plat, including, but not necessarily limited to, the Ranch Estates, Roads, the Ranch Center Easement Area, and any additions or deletions thereto as permitted under this Declaration.

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2.19 Ranch Center Easement Area shall mean the easement area as shown on the Plat as "Ranch Center" and improvements thereon, if any.

2.20 Member or Members shall mean Owners of Ranch Estates who are Members of the Association.

2.21 Mortgage shall mean any Mortgage, deed of trust or other security instrument creating a real property security interest in any Ranch Estate, excluding any statutory, tax or judicial lien.

2.22 Mortgagee shall mean any grantee or beneficiary of a Mortgage.

2.23 Mortgagor shall mean any grantor or trustor of a Mortgage.

2.24 Owner shall mean the person or persons or legal entity holding record fee simple title to a Ranch Estate. Declarant shall be entitled to treat the record title holder of a Ranch Estate as the Owner thereof for all purposes.

2.25 Planned Community. Cimarrona Ranch is a planned community pursuant to the requirements of C.R.S. § 38-33.3-205(1)(a).

2.26 Plat shall mean the Map for Cimarrona Ranch recorded under Reception No. \_\_\_\_\_ of the real property records of Archuleta County, Colorado, and any amendments thereto.

2.27 Ranch Estate shall mean subdivided parcels of land or lots designated by number on the Plat but not including any area designated as common area. Each Ranch Estate shall constitute a "Unit" as defined in CRS 38-33.3-103 (30).

2.28 Roads shall mean those access Road easements, including such improvements as bridges, culverts, and the like, throughout the subdivision shown on the Plat which provide general access to the Cimarrona Ranch and its improvements. Roads shall consist of: (i) Cimarrona Ranch Road and High Meadows Trail as the "Primary Roadway"; (ii) "Shared Drives" providing access to some Ranch Estates; and (iv) "Private Drives" providing access within a Ranch Estate to its developable area.

2.29 Special Assessments shall mean any special or extraordinary assessment levied and assessed pursuant to Section 5.3 below.

2.30 Utilities shall mean those underground Utilities under Roads, including Primary and Secondary Roadways and Private and Shared Drives, and other utility easements as shown on the Plat which will generally service the Ranch Estates, Ranch Center, and other common areas within Cimarrona Ranch.

2.31 Water Amenities shall mean all water and water-related improvements including ponds, ditches, water conveyancing channels, water systems and the like.



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2.32 Water Development Plan shall mean a plan on file with Declarant and the Association providing for the ongoing implementation, development, improvement, management and monitoring of non-domestic Water Rights and Water Amenities.

2.33 Water Rights shall mean all water and Water Rights, including any legal rights related thereto, for non-domestic water appurtenant to and benefiting the Cimarrona Ranch.

### 3. ASSOCIATION MEMBERSHIP.

3.1 Formation of Association. The Association shall be a nonprofit Colorado corporation charged with the duties and invested with the powers prescribed by law and as set forth in its Articles, Bylaws and this Declaration. Neither the Articles nor Bylaws of the Association shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

3.2 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 its Articles and Bylaws as the same may be amended from time to time. The Association, by and through the Board, shall govern and manage the Cimarrona Ranch, including Association property, and shall enforce the provisions of this Declaration. The initial Board shall be composed of three (3) Members. The Board may also appoint various committees. Cimarrona, during the "Declarant Control Period," shall have the right to appoint and remove Directors and officers. The Declarant Control Period commences on the date on which Declarant forms the Association and terminates on the earliest to occur of:

- (i) sixty (60) days after conveyance to Purchasers of 75 percent of the maximum number of Ranch Estates that may be created by Declarant pursuant to the Declaration;
- (ii) two (2) years after the last conveyance of a Ranch Estate by Declarant or a Successor Declarant to a Purchaser in the ordinary course of business; or
- (iii) two (2) years after any right under the Declaration to add new Ranch Estates was last exercised.

Declarant may voluntarily surrender the right to appoint and remove Directors and officers before termination of the Declarant Control Period. In that event, the Declarant may require, for the duration of the Declarant Control Period, that specified



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actions of the Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

3.3 Association Rules. The Association may, by a majority vote of the Board, adopt, amend and repeal rules and regulations to be known as the Cimarrona Ranch "Association Rules." The purpose of the Association Rules shall be to implement, supplement or otherwise carry out the purposes and intentions of this Declaration; provided such Association Rules must be consistent with this Declaration.

The Rules and Regulations shall also include the Agricultural Use Area - Use and Lease Guidelines which govern the method of leasing the portion of each Ranch Estate outside the Developable Area of such Ranch Estate, and related limitations on the use of such Agricultural Lease Area by the respective Ranch Estate owner, as well as the rights and limitations of all Ranch Estate owners with respect to the overall Agricultural Use Area.

3.4 Limited Liability. Neither the Association nor its past, present or future, officers, directors, employees, agents, or committee members of the Association shall be liable to any Owner or to any other person for any damage, act, omission to act, simple negligence, or other matter of any kind or nature, except gross negligence. Without limiting the foregoing, the Association and the Board shall not be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice. Acts taken upon the advice of legal counsel, certified public accountants, registered or licensed engineers, architects or surveyors shall conclusively be deemed to be in good faith and without malice. To the extent insurance carried by the Association for such purposes shall not be adequate, the Owners severally agree to indemnify the Association and Board against loss resulting from such action or failure to act, provided that the Association and the Board acted or failed to act in good faith and without malice.

3.5 Membership. The Association shall be a membership association without certificates or shares of stock. The Members of the Association shall be those persons or entities, including Cimarrona, who are the Owners, from time to time, of Ranch Estates in Cimarrona Ranch. Membership in the Association shall automatically terminate when a Member ceases to be an Owner of a Ranch Estate. There shall be one class of membership which is a voting membership by Owners of Ranch Estates.

3.6 Voting. A Member shall have one (1) vote for each Ranch Estate such Member may own. The affirmative vote of a majority of the total of all Members entitled to vote on any matter shall constitute approval of such matter. Where there are multiple Owners of a Ranch Estate, there shall remain only one vote for such Ranch Estate. If only one of the multiple Owners of the Ranch Estate is present at a meeting of the Association, such Owner shall be entitled to cast the vote allocated to that Ranch Estate. If more than one of the multiple Owners agreement of a majority in interest of the Owners of that Ranch Estate. The provisions of C.R.S. § 38-33.3-310(1) and (2) regarding voting shall apply to Ranch Estates with multiple Owners.



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For all elections of Board Members, those candidates receiving the highest number of votes shall be deemed elected. Lessees of Ranch Estates shall have no voting rights.

**3.7 Enforcement.** The Association and Cimarrona shall each have the right and power to bring suit in their respective names for legal or equitable relief for the failure to comply with any provision of this Declaration or rules promulgated by the Board or DRC. In addition, the Association shall have the right to impose on any Owner monetary fines for any lack of compliance with provisions of this Declaration or rules promulgated by the Board or DRC and where such fines are not paid within the time provided, such fines may be collected as an Assessment Lien. The failure of the Association or Cimarrona to insist upon the strict performance of any such provisions or to exercise any right or option available to it, or to serve any notice or to institute any action, shall not be a waiver or relinquishment for the future of any such provision or the enforcement thereof. Any Owner aggrieved by a lack of compliance by another Owner may also bring suit for legal and equitable remedies. If any court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to reimbursement of its costs and expenses, including reasonable attorney's fees, in connection therewith.

**3.8 Power of Association.** Each Owner agrees that the Association has all the powers granted to it by the Colorado Nonprofit Corporation Act and CCIOA, and any amendments thereto or replacements thereof. Such powers shall include, without limitation, levying Assessments against Owners, imposing a lien on Ranch Estates for any unpaid or uncollected Assessments or penalties, and foreclosing any such liens, enforcing any deed restrictions and these Declarations, acquiring, holding, owning, leasing, mortgaging and disposing of property (except as such disposition of property may be limited in accordance with Section 3.12 below), the adoption of rules and regulations, the defending, prosecuting or intervention in litigation on behalf of all Members, the borrowing of monies for Association purposes and the right to pledge future income in order to secure such borrowings. The term "pledge of future income" shall include the right to impose a Special Assessment for repayment of such borrowings and to assign such Special Assessment (and all lien and collection rights appurtenant thereto) to the lender as security for repayment thereof. The Association may exercise any other right, power or privilege, given to it by this Declaration, the Articles and Bylaws of the Association, or by law.

**3.9 Other Association Functions.** The Association shall undertake those functions and provide those services to Cimarrona Ranch as described in this section or otherwise set forth in this Declaration. Further, the Association may undertake, to the extent the Board in its sole discretion so elects, to provide Cimarrona Ranch certain other functions or services for the benefit of its Members on such bases as the Board may reasonably determine. Such functions may be provided by the Association's employees or an independent contractor retained by the Association. With respect to

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any Cimarrona Ranch functions or services, the Board shall have the authority to make common expense assessments consistent with the provisions of C.R.S. § 38-33.3-315.

The Association shall provide, but shall not be limited to, the following functions or services; (i) maintenance, repair, and operation of primary roadways and shared drives (including the ranch entrance and entrance area improvements); (ii) maintenance, repair, and operation of all common Utilities up to Ranch Estate entrances; (iii) maintenance, repair, and operation of all common Water Rights and Water Amenity improvements; (iv) maintenance, repair and operation of Ranch Center; (v) maintenance, repair and operation of common ranch areas, Agricultural Use Area (including fences thereon), trails, bridle paths, and bridle path common areas; (vi) maintenance and repair of Association fences; (vii) snow removal on all Roads, including, Private Drives; (viii) Association signs.

**3.10 Notice to Maintain.** An Owner shall immediately report to the Association, in writing, the need for any maintenance, repair or replacement which is the Association's responsibility to provide. In the event of any disagreement as to the need for or the responsibility of the Association to provide the said maintenance, repair or replacement, the good faith decision of the Board shall be final.

**3.11 Mechanic's Liens.** Cimarrona shall be responsible for the release of all mechanic's liens filed with respect to the Association property, or any part thereof, if any such liens arise or are alleged to arise from labor performed or materials furnished at the instance of Cimarrona, its agents, contractors or subcontractors. Except as the result of labor performed or materials furnished at the instance of the Board, no labor performed or materials furnished with respect to Association property or Ranch Estates shall be the basis for filing a lien against any Association property.

**3.12 Special Provisions Regarding Association Property.** All Association common property, including, but not necessarily limited to, Roads, Utilities, bridle paths, Water Rights, and Water Amenities, shall, at all times, be owned, managed, operated, and maintained by the Association consistent with the provisions of this Declaration and in trust for the use, benefit and enjoyment of all or some of the Owners of Ranch Estates, together with their family members, permitted guests and permitted invitees. Except as to sales or leases in the ordinary course of Cimarrona Ranch operations; conveyancing or encumbrance of Association property can only occur consistent with the provisions of C.R.S. § 38-33.3-312.

#### **4. ARCHITECTURAL CONTROLS.**

**4.1 Design Review Committee.** The DRC shall be composed of at least three (3) natural persons appointed by the Board. Persons serving on the DRC shall serve at the pleasure of the Board. The Board may remove a Member of the DRC and appoint a new Member at any time, provided there shall at all times be at least three (3) persons serving on the DRC. The Members of the DRC may or may not be Board Members or Owners and may include one or more professionals such as an architect



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paid by the Association to perform such services. The DRC shall have and exercise all the powers, duties and responsibilities set out in this Declaration. The DRC may at the expense of the Association hire any professionals or a secretary or other personnel to perform administrative, clerical and other functions. So long as Cimarrona elects a majority of the Board of the Association, then Cimarrona may also act as the DRC hereunder.

**4.2 Authority.** No development or construction of improvements of any nature whatsoever to, or on any property within the Cimarrona Ranch, including changes in natural conditions, shall occur until the Design and Construction Guidelines have been fully met and approval has been given consistent with the Design Review Guidelines requirements. The Design Review Guidelines shall address, but shall not be limited to, matters such as the construction of dwellings or other structures, outbuildings, well enclosures and pipelines, fences, grading, landscaping, Water Amenities, parking areas, walls, garages, Roads including Private Drives, satellite dishes or the like. Notwithstanding this, any work performed by or on behalf of Cimarrona, as Cimarrona develops the Cimarrona Ranch including, but not limited to, the construction, subdivision, infrastructure, and Ranch amenities, or the like, shall not require the approval of the Association or the DRC. Where Cimarrona shall cease to act as the DRC (see Section 4.1), the approval of Cimarrona shall still be required for the initial construction of any residence on the Cimarrona Ranch. This approval requirement shall be limited to the initial construction of the residences on Ranch Estates and shall continue so long as Cimarrona remains the Owner of any Ranch Estates.

**4.3 Approvals.** Anyone who desires to construct improvements on their Ranch Estate must make the submittals and follow the procedures required by the Design Review Guidelines. DRC shall not be committed or bound by any preliminary or informal approvals or disapprovals. All submittals may be disapproved if such submittals do not contain sufficient information for DRC to exercise the judgment required of it.

**4.4 Building Permit.** An Owner may apply for a building permit from the County at any time; provided, however, the plans submitted to the County shall not differ in any way from the plans approved by the DRC. If the plans submitted to the County differ in any way from the plans approved by the DRC, all approvals of the DRC shall be deemed automatically revoked.

**4.5 Variances.** DRC, by the affirmative vote of a majority of its members, may allow variances as to the Design Review Guidelines based on variance policies and rules promulgated by DRC and/or the Association. Any matter requiring a variance from County land use, building or zoning regulations shall also require approval from DRC.

**4.6 General Standards.** DRC may evaluate, among other things, all design, construction, aesthetic, and other architectural matters related to improvements within

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Cimarrona Ranch, consistent with the Plat, this Declaration, the Design Review Guidelines, and its rules and regulations.

**4.7 Rules and Regulations.** The Association and/or DRC may promulgate and adopt rules and regulations necessary to implement these Declarations. These rules and regulations include the Design Review Guidelines and may include submission requirements concerning the type of information, reports, plans and specifications and the like which need to be submitted for the construction of improvements on Ranch Estates. These rules and regulations need not be uniform for each Ranch Estate. The rules and regulations may take into account the unique character of each Ranch Estate. By way of illustration only and without requirement to do so, the Design Review Guidelines and rules and regulations may address, and the Association and/or DRC shall have the power and authority to regulate, any or all of, the following: application forms, bonds, letters of credit, all matters relating to architecture, design, location and construction of improvements within the Cimarrona Ranch, temporary construction facilities and storage of construction materials, grading and erosion control, landscaping and vegetation, fencing, lighting, signs, paths and trails, preservation of wildlife, privacy and general visual characteristics. The Design Review Guidelines and rules and regulations shall be adopted, amended, or replaced by affirmative vote of the Association Board, in consultation with DRC, and with the approval of Cimarrona. Cimarrona's approval shall no longer be required at such time as Cimarrona ceases to be the Owner of any Ranch Estate. Cimarrona may, at any time, waive and release the requirement to obtain its approval.

**4.8 Design Review Committee Not Liable.** The DRC, the Association, and Declarant shall not be liable for damages to any person submitting any plans for approval, or to any Owner or Owners of lands within the Cimarrona Ranch, by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such plans. The DRC, the Association, and Declarant shall have no liability or responsibility for any representations made to any Owner or prospective Owner by any third parties. These liability protections shall extend to, protect, and benefit all applicable board members, officers, members, managers, employees and agents of the DRC, the Association and the Declarant. The decision of the DRC shall be governed by these Declarations and any rules or regulations duly adopted by the Association pursuant to these Declarations.

**4.9 Written Records.** The DRC shall keep and safeguard complete and permanent written records of all approved applications, including one set of the finally approved architectural and site development plans, and of all actions of approval or disapproval and all other formal actions taken by it under the provisions of this instrument. The records of the DRC shall be maintained for a reasonable period of time by the secretary of the Association at his residence or office.

**4.10 Inspection and Compliance.** The DRC shall have no duty or obligation to make inspections of any construction; however, nothing herein shall prevent the DRC from making inspections prior to or after completion. Upon the completion of any

  
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work for which approved plans and specifications are required, the Owner shall give written notice of completion to the DRC. Upon such notice DRC shall then undertake the final inspection of the work consistent with the final inspection terms and procedures as set forth in the Design Review Guidelines. In addition to the terms and procedures set forth in the Design Review Guidelines, if the DRC finds that the work was not done in substantial compliance with the approved plans or any construction or change in natural conditions on any Ranch Estate was undertaken without first obtaining approval from DRC, written notice shall be sent by the Board to such Owner specifying the noncompliance and requiring the Owner to cure such noncompliance within thirty (30) days or any extension thereof granted. If the Owner fails to cure the noncompliance or to enter into an agreement to cure on a basis satisfactory to DRC within said thirty (30) day period or any extension thereof as may be granted, the Board may, at its option, cause the noncomplying improvement to be removed or the noncompliance to be cured. Upon demand, the Owner shall reimburse the Association for all costs and expenses incurred by the DRC in taking corrective action, plus all costs incurred in collecting amounts due, including reasonable attorneys' fees and costs and any amounts not paid may, without waiver of any other right or remedy, be collected as an Assessment Lien. The Owner shall be personally liable for all such costs and expenses, and the Association shall also have a lien against the noncomplying Ranch Estate for the amount of all such costs and expenses. Such lien shall exist, be subject to, and be governed by CCIOA. Notwithstanding any other provision hereof, the DRC shall not be responsible for: (a) determining that any construction or construction documents conform to applicable building codes, zoning or other land use regulations, (b) for the accuracy or content of any construction documents or specifications prepared by any architect, engineer or any other person, (c) construction means, methods, techniques, sequences or procedures, safety precautions or subsequent loss, damage or failures due to soil or any other natural or man-made conditions that may exist, or (d) any failure to carry out any construction in accordance with plans or specifications.

## **5. ASSESSMENTS.**

**5.1 Purpose of Assessments: Assessment Lien.** All Members of the Association hereby covenant and agree, and each Owner by acceptance of a deed to a Ranch Estate, including public trustee or sheriff's deed, is deemed to covenant and agree, to pay the Association both Annual Assessments and Special Assessments, all such Assessments and charges to be established and collected as hereinafter provided. Annual Assessments and Special Assessments, together with interest, costs, and reasonable attorney's fees, shall be secured by a lien (the "Assessment Lien") on the Ranch Estate to which they relate in favor of the Association, which shall be a continuing servitude and lien upon the Ranch Estate against which each such Assessment or charge is made. The Assessment Lien, including, but not limited to, its enforcement and priorities, shall be consistent with, and shall contain, all of the provisions set forth in C.R.S. § 38-33.3-316. The Assessment Lien shall be the personal obligation of the Owner of a Ranch Estate. Where there is more than one Owner, each

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shall be jointly and severally liable for all assessments. Declarant and the Association shall be entitled to purchase a Ranch Estate at any Assessment Lien foreclosure sale.

## **5.2 Annual Assessments.**

(a) Prior to the first levy of an Assessment, and thereafter on or before October 1 of each calendar year, the Board shall adopt a proposed annual budget for the Association for the following calendar year that sets forth:

(i) the Board's estimates of Common Expenses for the next calendar year;

(ii) the amount of funds for such annual Expenses that the Board proposes to raise through Common Assessments; and

(iii) the amount of funds for such Common Expenses that the Board proposes to raise through Special Assessments.

(b) Within thirty (30) days after adopting a proposed Budget, the Board shall deliver a summary of the proposed Budget to the Owners and set a date for a meeting of the Owners to consider ratification of the proposed budget. The date of such meeting shall not be less than fourteen (14) days nor more than sixty (60) days after the delivery of the summary of the proposed budget to the Owners. Unless at that meeting a majority of the votes allocated to all Memberships, whether or not a quorum is present, rejects the proposed budget, the proposed budget shall be deemed ratified. If the proposed budget is rejected, the annual budget last ratified by the Owners shall be deemed renewed for the next calendar year and shall remain in full force and effect until such time as the Owners ratify a subsequent budget proposed by the Board.

(c) If the Board deems it necessary or advisable to amend an annual budget that has been ratified by the Owners under this Section 5.2, the Board may adopt a proposed amendment to the annual budget, deliver a summary of the proposed amendment to all Owners and set a date for a meeting of the Owners to consider ratification of the proposed amendment. The date of such meeting shall not be less than fourteen (14) days nor more than sixty (60) days after the delivery of the summary of the proposed amendment. Unless at that meeting a majority of the votes allocated to all Memberships, whether or not a quorum is present, rejects the proposed amendment, the proposed amendment shall be deemed ratified.

**5.3 Special Assessments.** In addition to the annual assessment authorized above, the Association may levy, in any assessment period, as defined in Section 5.5 hereafter, a Special Assessment for the purpose of defraying, in whole or in part, the

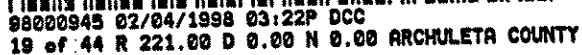


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**5.4 Rate of Assessment.** Annual Assessments and Special Assessments shall be fixed based on the amount of the Assessment divided by the number of Ranch Estates that are obligated to pay such Assessments. Assessments may be collected on a yearly basis or more often as the Board so determines. Assessments will be equitably charged to those Ranch Estates participating in or receiving Association benefits.

**5.6 Effect of Nonpayment.** Any Assessment, Assessment charge, or installment thereof, not paid when due, shall be deemed delinquent. Fees, charges, late charges, attorneys fees, fines, and interest shall be applicable to such delinquent Assessment pursuant to the provisions of C.R.S. § 38-33.3-316. The Board may, but shall not be required to, record a Notice of Delinquent Assessment against any Ranch Estate as to which an Assessment is delinquent. Such notice shall be executed by an officer of the Board, shall set forth the amount of the unpaid assessment, the name of the delinquent Owner(s), and a description of the Ranch Estate. The Association may bring an action at law against the Owner(s) obligated to pay the delinquent Assessment and/or may foreclose the Assessment Lien in conformance with the provisions of C.R.S. § 38-33.3-316(11)(a).

5.8 Statement from Association. Upon written request and payment of such reasonable fee as may be set by the Association, the Association shall issue a written statement to any grantee or Mortgagee verifying the status of all Assessments or



charges affecting the Ranch Estate. Any statement as to the existence or amount of any delinquencies shall, absent manifest error, conclusively bind the Association.

5.9 Assessments for Tort Liability. In the event of any tort liability against the Association which is not covered completely by insurance, each Owner shall contribute for the payment of such liability as a Special Assessment. The Association may, however, require a larger contribution from fewer than all Owners under any legal or equitable principles regarding liability for negligent or willful acts or omissions.

5.10 Declarant Responsibility. Until a common expense assessment has been duly adopted by the Association, Declarant shall pay all association common expenses related to Cimarrona Ranch.

## 6. INSURANCE.

6.1 Types of Insurance. The Association may obtain and keep in full force and effect the following insurance coverage, if appropriate:

(a) Property and fire insurance with extended coverage and standard all-risk endorsements, including vandalism and malicious mischief, on Property conveyed or leased by Declarant or any other Association property. The total amount of insurance, after application of deductibles, shall be 100% of the replacement value of the insured property exclusive of land, foundations and other items normally excluded from property policies.

(b) Public liability and property damage insurance, including medical payments insurance, in an amount to be determined by the Board, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connecting with the ownership, operation, maintenance or other use of Association property. This policy shall also cover operation of automobiles or other vehicles or equipment on behalf of the Association.

(c) Workmen's compensation and employer's liability insurance in the amounts and in the forms required by law.

(d) Fidelity coverage against the dishonesty of employees, destruction or disappearance of money or securities, and forgery. This policy shall also cover persons who serve the Association without compensation.

(e) Coverage of Members of the Board and officers of the Association against libel, slander, false arrest, invasion of privacy and errors and omissions and other forms of liability generally covered in officers and directors liability policies.



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(f) Insurance against loss or damage to persons or property for ditch or dam failure.

(g) Coverage against such other risk of a similar or dissimilar nature as the Board deems appropriate.

(h) Insurance policies carried pursuant to this Section 6 must provide that: (i) each Ranch Estate Owner is an insured person under the policy with respect to liability arising out of such Ranch Estate Owner's interest in Association Property or membership in the Association; (ii) the insurer waives its rights to subrogation under the policy against any Ranch Estate Owner or member of the Ranch Estate Owner's household; (iii) no act or omission by any Ranch Estate Owner, unless acting within the scope of such Ranch Estate Owner's authority on behalf of the Association, will void the policy or be a condition to recover under the policy; and (iv) if, at the time of a loss under the policy, there is other insurance in the name of the Ranch Estate Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

6.2 Named Insured and Interests. The Association shall be the named insured under each of said policies. Where appropriate, the named insured may be any ditch or reservoir company owned or controlled by the Association or other officers and directors of the Association or other officers and directors of any ditch or reservoir company owned or controlled by the Association. Policies of insurance shall also name Cimarrona as an insured so long as it shall retain any interest in Cimarrona Ranch. Where appropriate, separate Owners may also be named insureds. The certificate or memoranda of insurance, duplicate originals of all policies and renewals, and proof of payment of premiums shall be issued to the Association, and upon request, to Cimarrona and to any Owner who is a named insured or to any Eligible Mortgage Holder.

6.3 Insurance Proceeds. The Association shall receive the proceeds of any insurance purchased by the Association. In the event of damage or destruction due to fire or other disaster, if the insurance proceeds are sufficient to reconstruct the improvements, the Association shall promptly cause such reconstruction to occur. If the insurance proceeds are not sufficient for such purpose, the Association may levy a Special Assessment against the Owners for such deficiency.

## 7. GENERAL RESTRICTIONS.

7.1 Property Uses. The general uses and restrictions applicable to the Ranch Estates within Cimarrona Ranch are as follows:

(a) Cimarrona, prior to the sale of Ranch Estates by it to third parties, reserves the right to continue the agricultural uses and businesses on all Ranch

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Estates including, but not necessarily limited to, the cultivation of the soil to produce and sell agricultural products therefrom and the buying, selling, rearing, feeding, and management of horses, mules, burros, donkeys or llamas (hereafter referred to as "Agricultural Use"). Cimarrona may continue to make Agricultural Use of the Ranch Estates it owns until it has sold all of the Ranch Estates it has developed.

(b) Upon a Cimarrona sale of a Ranch Estate or Ranch Estates to third parties, the Agricultural Use of that Ranch Estate or Ranch Estates shall be in accordance with the Agricultural Use Area - Use and Lease Guidelines at any time the term of any lease of the non-Developable Area by the Association in accordance with this Declaration. In the event that the Association does not have a lease on other than the Developable Area of any given Ranch Estate, the owner of the Ranch Estate shall be entitled to engage in Agricultural Use (as defined in subparagraph (a) immediately above. Other than the limited rights of Agricultural Use defined in this Section 7.1, each Ranch Estate shall be used only for residential purposes and such accessory or incidental uses that are consistent with this Declaration. No commercial activity may be conducted on any Ranch Estate. On each Ranch Estate there shall be constructed only one primary single family residence, and, if an Owner so desires, one guest house, one barn, and one pasture turnout area, and necessary stable and corral areas. The guest house may be used by Ranch Estate caretakers working for Owner. Any improvements on a Ranch Estate shall be consistent with the terms, provisions and conditions contained on the Plat, this Declaration, the Design Review Guidelines, rules and regulations, and the land use requirements of the County.

(c) No Owner shall be permitted to lease his Ranch Estate and residence for any period of less than one year. Any lease agreement shall be required to provide that the terms of the lease shall be consistent with and subject in all respects to the provisions of the Plat, this Declaration, and the Design Review Guidelines. Any failure of the lessee to comply with the terms of such document shall be a default under the lease. All Owners leasing or renting their Ranch Estate and improvements thereon shall promptly notify the Association in writing of the names of all tenants and members of the tenant's family occupying such Ranch Estate and of the address and telephone number where such Owner can be reached. All such leases shall be in writing.

(d) No time share or time share-like ownerships of Ranch Estates are permitted. Ranch Estates title ownership shall be limited to no more than four individuals, at least two of which are related by blood or marriage. The Association shall be entitled to injunctive and other relief necessary to enforce this restriction.



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7.2 Development Activity. All development within the Cimarrona Ranch shall be undertaken consistent with this Declaration, the Plat, the Design Review Guidelines, and all applicable rules and regulations.

7.3 Selection of Developable Area. Upon completion of the Design Review Guidelines review process for development and construction upon a Ranch Estate, the issuance of a building permit shall thereafter constitute the irrevocable exclusive selection by the Owner of the Ranch Estate that the approved Developable Area is final.

7.4 Relocation of Developable Area. Cimarrona reserves the right as to any Ranch Estate owned by Cimarrona to relocate Developable Areas, or any access thereto, or to delete existing Developable Areas or designate new Developable Areas, including access thereto. Owners of Ranch Estates, the Association and the DRC hereby consent to said relocation, deletion or designation of new Developable Areas by Cimarrona or any access thereto. Owners of Ranch Estates shall also have the right to apply to the Board for the relocation of the Developable Area on their respective Ranch Estate, however, Cimarrona's approval must be obtained during the Declarant Control Period, and approval is obtained consistent with the requirements of this Declaration and the Design Review Guidelines.

7.5 Pets. A reasonable number of domestic pets shall be allowed on Ranch Estates. All pets shall be confined to the Developable Areas or attached to a leash or other suitable control device. Domestic pets are limited to dogs, cats, rabbits, fish, non-poisonous lizards and reptiles and amphibians, rodents, and non-poultry birds. All pets other than dogs, cats are limited to the interior of homes or associated outbuildings. Owners must insure that their pets shall not harass wildlife. Pets which do harass wildlife may be banned from the Cimarrona Ranch by the Association. Pets shall not be allowed to create excessive noise or odor and shall be restrained from interfering with other Owners' quiet and peaceable enjoyment of their Ranch Estate. The Association may also adopt additional rules or conditions regarding pets. The keeping or maintaining of any animals other than the pets allowed pursuant to this Section 7.5 and the horses, mules, donkeys, burros and llamas allowed pursuant to Section 7.1 above, is expressly prohibited.

7.6 Horses. Ranch Estate Owners shall be allowed to maintain and stable horses, mules, donkeys, burros and llamas on their Ranch Estates subject to the Agricultural Use Area - Use and Lease Guidelines and the Design Review Guidelines. The Association shall, within the Agricultural Use Area - Use and Lease Guidelines, promulgate rules as to the number of such animals Owners may have, areas within and upon which such animals may be maintained and stabled, and areas upon Ranch Estates which may be fenced for the maintenance and grazing of permitted animals on such Ranch Estate.

7.7 Further Subdivision. Except as allowed in Section 7.8 and Section 7.9, no Ranch Estate shown on the Plat shall ever in the future be subdivided by an Owner

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into smaller parcels or conveyed or encumbered in any less than the full dimensions shown on the Plat; provided, however, conveyances, easements or dedications for Roads, Utilities, easements, and water structures may be made with regard to less than a Ranch Estate. Notwithstanding the preceding, there is reserved to Cimarrona the right to further subdivide, convey or encumber in less than full dimensions any Ranch Estate in Cimarrona Ranch owned by Cimarrona; provided, however, any such resubdivision or conveyance of a Ranch Estate site can never result in a Ranch Estate of less than thirty-five (35) acres.

**7.8 Boundary Line Adjustments by Owners.** Notwithstanding the provisions of Section 7.7 above, a boundary line adjustment by Owners between, or among Owner owned Ranch Estates, shall be permitted provided that:

- (a) the relocation of boundaries between Ranch Estates must be undertaken consistent with the provisions of C.R.S. § 38-33.3-212 and county regulations;
- (b) the resulting Ranch Estate or Ranch Estates must contain not less than 35 acres; and
- (c) the relocations of boundaries must be limited to adjustments between, or among, the Ranch Estates as platted. No relocation of boundaries shall occur with adjoining lands that are not a part of the Cimarrona Ranch.

**7.9 Boundary Line Adjustments by Cimarrona.** Notwithstanding the provisions of Sections 7.7 and 7.8 above, the following boundary line adjustments by Cimarrona shall be permitted:

- (a) As between, or among, the boundary of any Ranch Estates owned by Cimarrona;
- (b) To finally establish the boundaries of the Ranch Center Easement Area;
- (c) As between, or among, the boundary of any Ranch Estates owned by Cimarrona and property adjacent to Cimarrona Ranch lands abutting such Ranch Estates;
- (d) The relocation of such boundaries must be undertaken consistent with the provisions of CRS § 38-33.3-212 and County regulations; and
- (e) The resulting Ranch Estate or Ranch Estates must contain not less than 35 acres;

**7.10 Utilities.** Except for required above-ground improvements at utility origination points, all domestic water, sewer, electrical, telephone, gas and other utility

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pipes or lines shall be buried underground and shall not be carried on overhead poles or above the surface of the ground. Any areas of natural vegetation or terrain disturbed by the burying of utility lines shall be revegetated to Design Review Guidelines standards by and at the expense of the Owner causing the installation of the Utilities no later than the next growing season following such installation. Notwithstanding any other provision hereof, there is reserved to Cimarrona the right to temporarily install overhead poles, towers or above ground pipes for Utilities.

**7.11 Enclosure of Unsightly Facilities and Equipment.** All unsightly facilities, equipment and other items, including, but not limited to, those specified below shall be enclosed within a covered structure. Any motor home, trailer, boat, truck, tractor, garden equipment and any similar items shall be kept at all times, except when in actual use, in an enclosed garage. Any refuse or trash containers, utility meters or other facilities, service areas, or storage piles shall be enclosed within a structure or appropriately screened from view by planting or fencing approved by the DRC and adequate to conceal the same. No lumber, metals, boat materials, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any Ranch Estate, except building materials during the course of construction and only for such reasonable periods of time as is necessary prior to their collection or disposal.

**7.12 Satellite Dishes.** The installation of satellite, relay, up-link or other communication dishes or facilities must be installed within Ranch Estates consistent with the requirements of this Declaration and the Design Review Guidelines. Plans for any dish or other facilities shall include details as to location, size, color, installation, maintenance and other specifications as the Design Review Guidelines may reasonably require. Satellite dishes not exceeding 18 inches in diameter shall be automatically approved.

**7.13 Hunting and Firearms.** Hunting and the discharge or shooting of firearms anywhere within Cimarrona Ranch is prohibited, except the ranch manager or other employees or agents of the Association shall be permitted to use firearms on any Ranch Estate in connection with wildlife management or predator control; provided, however, that any Owner shall be given reasonable notice of entry except in the case of emergency. Further, the Association may promulgate and enforce rules and regulations regarding Owners' (and their families, guests and invitees) access to adjoining national forest and/or BLM lands (from Cimarrona Ranch Estates) for hunting and the discharge or shooting of firearms.

**7.14 Drainage and Erosion Control.** Except as permitted by Declarant, the Association, and/or by DRC no Owner shall do anything which shall:

- (a) Impair or adversely affect the natural drainage on any Ranch Estate;
- (b) Divert water onto another Ranch Estate; or

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(c) Deprive any Ranch Estate of its natural drainage course.

No Ranch Estate Improvements may cause new erosion or exacerbate existing erosion or draining patterns where such changes are, in the opinion of the Association, detrimental to Cimarrona Ranch lands or Association Water Rights or other Water Rights vested in the Owners of lands adjacent to Cimarrona. Each Owner shall install culverts where driveways cross Road ditches, irrigation channels and other water ways as required by the DRC. The minimum size of any culvert and the construction methods utilized in installing any culvert shall also be approved by the DRC. The Association retains the right over and across all Ranch Estates, other than Developable Area, to engage in any necessary drainage, soil or erosion control activities and to further develop Water Rights.

**7.15 Pest Control.** With the exception of normal pest control immediately around an Owner's residence and guest house, no Owners may engage in any other pest control activities without having first obtained the written approval of the Association. The Association, consistent with this Declaration, may grant or withhold any such approvals. In the granting of any approval, the Association may impose conditions on any pest control, including the techniques, devices or chemicals that may be employed. All pest control not undertaken by the Association shall be implemented at the expense of such Owner.

**7.16 Noxious or Offensive Activity.** No noxious or offensive activity or sound shall be conducted on any portion of the Cimarrona Ranch at any time, nor shall anything be done or permitted which may become a nuisance to, or unreasonably disturb, Owners of other Ranch Estates, or be injurious to the reputation of Cimarrona Ranch. Owners shall undertake weed control consistent with the requirements of the County, this Declaration, the Design Review Guidelines and rules and regulations.

**7.17 No Mining, Drilling or Quarrying.**

(a) Mining, quarrying, tunneling, excavating or drilling for any substances within the earth, including oil, gas, minerals, gravel, sand, rock and earth, shall not be permitted within the limits of the Cimarrona Ranch except as allowed by this Section.

(b) Owners of minerals which have been severed from the surface estate shall be permitted to conduct operations necessary to explore for and/or extract any minerals or oil and gas reserves given them in any documents or conveyances provided such activity is consistent with Colorado state, county and other local laws and regulations and, to the extent permitted by such laws and regulations, does not intrude on the surface of any Ranch Estate or impair subjacent, lateral or surface support of any improvements within the Cimarrona Ranch.

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(c) Drilling for water by Cimarrona, or the Association, or their successors and/or assigns, for domestic purposes shall be permitted within the limits of the Cimarrona Ranch.

(d) Drilling of individual water wells shall be permitted by Owner of Ranch Estates in accordance with the provisions of Section 9.2 below.

**7.18 Completion of Construction.** Any construction activity on any Ranch Estate shall be commenced within twelve (12) months of written approval of plans and specifications by the Association. Any such construction activity shall be completed and fully cleaned up within eighteen (18) months from its commencement or a variance shall be obtained from the DRC to allow for a longer period of construction upon proof of due diligence.

**7.19 Private Driveways and Utilities.** All Private Drives shall be constructed and improved at the expense of the Owner of a Ranch Estate. Except for snow removal, which shall be undertaken by the Association, all maintenance, repair, and improvement of Private Drives shall be the responsibility of the Owner. All Utilities which are constructed to serve the Developable Areas within a Ranch Estate must be underground and must be placed within the easement area of the Private Drive. All such improvements must be constructed consistent with the Plat, this Declaration, the Design Review Guidelines, the standards of the County and the applicable utility company.

**7.20 Trees and Landscaping.** Owners may not cut or alter trees, bushes or natural vegetation except with the approval of the DRC and then only within the Developable Area. Cutting or alteration of trees, bushes or natural vegetation by the Association or Cimarrona may occur on Cimarrona lands, outside Developable Area, as is necessary for the general enhancement of Cimarrona Ranch lands, Association lands and operations, Ranch Center, and for easement uses or activities, including, but not necessarily limited to, those uses and activities created, reserved or granted in Section 8 and Section 9 of this Declaration, or as described in the Design Review Guidelines, or as shown on the Plat.

**7.21 Damage by Owners.** Owners are responsible for any damage caused to Roads, Utilities, Water Amenities, natural drainage courses, water conveyancing channels, bridle paths, ditches, fences, Association common property, and improvements constructed or being constructed by Cimarrona at its development of Cimarrona Ranch. By way of example, Owners are responsible for any damage caused by utility cuts in Roads and damage, such as washouts, caused by the Owner's failure to properly install culverts. Owner shall correct and repair any such damage in a timely manner.

**7.22 Fences.** Permitted fences on, about, or within the Cimarrona Ranch can only be constructed in a manner consistent with the Design Review Guidelines and the Agricultural Use Area - Use and Lease Guidelines. Ranch Estate owners right to

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fencing shall be in accordance with such guidelines and shall be limited to the Developable Area of the Ranch Estate unless specifically approved by the DRC and the Board. Cimarrona and the Association, at their discretion, may maintain or construct permanent or temporary fences within Cimarrona Ranch. Fences shall not interfere with the ownership, development, use, or operation of Cimarrona Ranch.

**7.23 Sewage Disposal Systems.** Each of the homes to be constructed on Ranch Estates will be on individual sewage disposal systems. Owners will be responsible for the design of their individual systems with due regard for specific soil conditions, percolation rates and the like. All systems shall meet the minimum requirements of the County and/or the San Juan Basin Health Department (or its successor). In addition, all sewage disposal systems shall:

- (a) be located entirely within the Developable Area of a Ranch Estate;
- (b) blend in with the natural landscape and not be located or constructed above grade except where approved by the DRC;
- (c) not be located, designed or operated so as to encroach upon or otherwise affect any domestic water distribution systems, wells, ditches or other Water Rights, natural drainage courses, or any sewer disposal systems on other Ranch Estates; and
- (d) be developed consistent with the Design Review Guidelines.

**7.24 Motorized Vehicle Limitations.** Use of any "off-road" motorized vehicles, including, but not limited to, motorcycles, three wheelers, four wheelers, ATV's, etc., on Cimarrona Ranch is expressly prohibited. Such limitation shall not limit the use of garden tractors or other agricultural equipment on Ranch Estates nor the on-road use of motorcycles, licensed for use on public highways, on the Cimarrona Ranch roads as shown on the Plat. Nor shall the limitation prohibit the use of snowmobiles so long as such use is limited to use on the Cimarrona Ranch Roads and paths as designated in the Agricultural Use Area - Use and Lease Guidelines.

**7.25 Signs.** The Association and Declarant shall have the right to post signs on any Ranch Estate prohibiting trespassing or hunting, to protect boundary lines, or for any other purposes consistent with Association operations. Cimarrona shall also be permitted to maintain signs for the purpose of the development of Cimarrona Ranch (Section 8.2) and for sales activity (Section 14.1). Owners may not post, maintain, or permit any signs on any Ranch Estates or other property of Cimarrona Ranch without the approval of DRC. Any such signage approved shall be consistent with the requirements of this Declaration and the Design Review Guidelines.

**7.26 Water Development.** All development of water, Water Rights, and Water Amenities can only be developed and improved consistent with the Plat, this Declaration, the Design Review Guidelines, Agricultural Use Area - Use and Lease

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Guideline, rules and regulations, and any applicable governmental rules and regulations. Cimarrona, in cooperation with the Association, shall establish a Water Development Plan. The development of Water Amenities upon a Ranch Estate by an Owner shall be developed at the Owner's cost and liability, and such development shall be undertaken consistent with the Water Development Plan, this Declaration and the Design Review Guidelines and the Agricultural Use Area - Use and Lease Guidelines.


## **8. EASEMENTS AND RIGHTS RESERVED.**

**8.1 Easements Described on Plat.** The Cimarrona Ranch subdivision is subject to the easements shown, created, reserved or granted on the Plat. When necessary, Cimarrona shall have the right, without obtaining the consent of any Owner, Mortgagee or the Association, to amend the Plat to reflect the as-built relocation or any relocations of existing easements shown on the Plat, or the granting of any new easements for any of the purposes permitted hereunder.

**8.2 Development of Cimarrona Ranch.** For the purpose of generally developing Cimarrona Ranch, including the Ranch Center, Cimarrona reserves easement rights for itself (and to the extent necessary, such rights are hereby extended to the Association) and their agents, employees, and contractors, to enter upon Cimarrona Ranch and to do whatever Cimarrona deems necessary and advisable in connection with its development. Such development includes, but is not limited to, the construction of all Roads, Utilities, common areas, Water Amenities, and all other general improvements necessary for Cimarrona to successfully complete the development and sale of properties within Cimarrona Ranch. Such development rights shall also include property which may be conveyed or leased to the Association. However, this general development right reserved by Cimarrona, shall not, with the exception of the development of Water Right and Water Amenities, extend to any Developable Area on any Ranch Estate after the closing of the sale to an Owner.

**8.3 Waterways and Water Amenity Easements.** Cimarrona hereby reserves to itself (and to the extent necessary, such rights are hereby extended to the Association) such general water easements as are described in the Plat, this Declaration, the Design Review Guidelines, or as required by law, for the purpose of permitting Cimarrona to generally develop Water, Water Rights, and Water Amenities throughout the Cimarrona Ranch or to provide water to properties adjoining the Cimarrona where, and if, required by agreement or as a matter of law.

**8.4 Granting of Utility and Access Easements.** Cimarrona reserves rights (and to the extent necessary, such rights are hereby extended to the Association) to grant nonexclusive easements for Utilities and Access, over and across all of the Cimarrona Ranch property. Cimarrona may substitute one or more specific easements for use by utility companies and others by the recording of an easement in the County real estate records. Unless the written consent of Cimarrona is first obtained, utility companies shall have no right to use easements over Cimarrona Ranch lands to serve properties adjacent to Cimarrona Ranch lands. Where Cimarrona shall grant any

  
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easements to utility companies or others to serve properties nearby or adjacent to Cimarrona Ranch, Cimarrona shall be entitled to receive any consideration paid by such adjacent property Owner or the utility company for such easement. Cimarrona is responsible for the installation by, and it shall also make necessary arrangements with, utility companies to provide the Utilities Cimarrona has contracted with Ranch Estate purchasers to provide; provided, however, such utility services may be extended to the Cimarrona Ranch in phases. Accordingly, Utilities may not be available to all Ranch Estates at the same time and any Owner, prior to the purchase of a Ranch Estate, shall be responsible for obtaining from Cimarrona a schedule for the phasing of Utilities. Cimarrona shall convey such Utilities and utility easements to the Association not later than the date Seller has conveyed to a buyer the last Ranch Estate it has available for sale. The Association shall thereafter own and be responsible for the use, protection, maintenance, repair, and operation of such Utilities and utility and access easements.

8.5 **Operations Easement.** There is reserved to Cimarrona (and to the extent necessary, such rights are hereby extended to the Association) the right from time to time to enter upon Ranch Estates or other portions of the Cimarrona Ranch to perform or carry out any Cimarrona Ranch operations, whether undertaken by Cimarrona or the Association, including the maintenance, repair, operation, and enhancement of items such as wildlife habitat, ditches, Water Rights, Water Amenities, fences, water systems, weed control and agricultural operations. Cimarrona and the Association may undertake any other actions reasonably required to fully operate the Cimarrona Ranch.

8.6 **Emergency Access Easement.** A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons, now or hereafter servicing Cimarrona Ranch and its residents and to Cimarrona or the Association, or any Association employees, to enter upon all Roads to undertake the lawful performance of their duties. Private security contracts or other security arrangements made by Owners must first be approved by the Association.

8.7 **Easement Reservations.** Cimarrona hereby reserves and retains (and to the extent necessary, such rights are hereby extended to the Association) permanent and perpetual easements under and across all easements described in this Declaration, as shown on the Plat, or existing as a matter of law, for the purposes of operating, installing, constructing, maintaining, and repairing all Cimarrona Ranch facilities and improvements and for such other purposes as may be described in this Declaration. Cimarrona hereby agrees that Roads, Utilities, bridle paths and equestrian staging and common areas, and other common properties and common amenities are for the use, benefit and enjoyment of Cimarrona, Owners, their family members, guests and invitees, the Association, and the private club to be organized by Cimarrona (see Section 8.9(x)). Cimarrona and/or the Association shall have the right to install cattle guards, gates (including security and entry gates), speed bumps or dips, guard rails, water structures, and the like. In the event Cimarrona shall determine to enlarge the width of any Road, Utility easement, bridle path, equestrian staging and common areas, or other common area, easements and improvements, Cimarrona shall have the right to

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amend the Plat for that purpose without obtaining the consent of any Owner, Mortgagee or the Association.

**8.8 Ownership of Easements.** All easements and rights reserved by Cimarrona in Sections 8.1 through 8.7 hereof, or otherwise reserved or granted to Cimarrona in this Declaration, the Plat, or which exists as a matter of law, shall remain vested in Cimarrona until such time as Cimarrona has executed and delivered an instrument in writing transferring these to the Association. Upon such assignment and transfer, liability, ownership, and responsibility regarding such easements and rights shall be assumed by and belong to the Association. Where the instrument recites it as a complete transfer, Cimarrona shall be relieved from any and all continuing responsibilities and liabilities thereof. With respect to Roads, Utilities and utility easements, and easements conveying domestic water to Ranch Estates, these easements may not be vacated, extinguished, impaired, or limited, except upon the written consent of the Owner, unless Cimarrona or the Association have made comparable alternative provisions to provide such easement and easement improvements to the affected Ranch Estate. No amendment to this Declaration may preclude a Ranch Estate from having an access Road, Utilities and utility easements, and easements necessary to convey domestic water to the affected Ranch Estate.


**8.9 Reserved Declarant Rights.** Declarant reserves the following development rights and special rights regarding Cimarrona Ranch:

- (a) The right to create a maximum of 45 Ranch Estates within Cimarrona Ranch;
- (b) The right to create or acquire and annex property to become common property of the association for maintenance, ranch or other common useage;
- (c) The right to annex Annexable Property;
- (d) DRC rights reserved in Section 4.1;
- (e) construction approval rights reserved in Section 4.2;
- (f) agricultural operation rights reserved in Section 7.1;
- (g) the Relocation of Developable Areas reserved by Cimarrona in Section 7.4;
- (h) the subdivision, conveyance and encumbrance rights reserved in Section 7.7;
- (i) those boundary line adjustment rights reserved in Sections 7.8 and 7.9;



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- (j) the development rights reserved in Sections 8.1 and 8.2;
- (k) the waterway, ditch, reservoir, and water amenity easements reserved in Section 8.3;
- (l) the development rights, rights to grant easements and right to receive compensation for easements granted reserved in Section 8.4;
- (m) the operations easement, and operations and maintenance rights as set forth in Section 8.5;
- (n) the emergency access easement rights reserved in Section 8.6;
- (o) the easement rights and easement enlargement rights reserved in Section 8.7;
- (p) the easement and rights reserved in Sections 8.8 and 8.10
- (q) the Water Rights as set forth in Section 9.1;
- (r) the water system and water systems development as set forth in Section 9.2
- (s) the wetlands rights reservations reserved in Section 9.3
- (t) the rights and reservations reserved in Sections 9.4 and 9.5
- (u) the rights, reservations, and attorney-in-fact designation granted in Section 9.6
- (v) The amendment rights granted in Section 12.2;
- (w) the sales activity rights reserved in Section 14.1;
- (x) The annexation of all or portions of the Annexable Property described on Exhibit "A". Each Owner of a Ranch Estate hereby grants to Declarant the right to annex all or portions of the Annexable Property to Cimarrona Ranch and to modify such Owner's Allocated Interests accordingly. Declarant makes no assurances that all or any portion of the Annexable Property will be annexed to Cimarrona Ranch and Declarant reserves the right to annex all or any portion of the Annexable Property to Cimarrona Ranch in any order it deems fit in its sole and absolute discretion.

  
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The annexation of additional property to Cimarrona Ranch shall be accomplished by the Declarant recording with the Clerk and Recorder of Archuleta County a Supplemental Declaration containing a legal description of the land area to be added to Cimarrona Ranch and amending this Declaration accordingly, together with a Supplemental Plat thereof. The Supplemental Declaration shall assign an identifying number to each new Ranch Estate created thereby, and shall reallocate the Allocated Interests of all Lot Owners in Cimarrona Ranch in accordance with the definition of Allocated Interests contained in this Declaration. In no event shall any annexation increase the number of Ranch Estates in Cimarrona Ranch beyond the 45 Ranch Estate maximum stated in this Declaration. The Supplemental Declaration shall also describe any Common Areas thereby created.

The annexation of all or portions of Annexable Property may be accomplished by successive Supplemental Declarations, in no particular or pre-established order, and may provide that property annexed thereby ("Annexed Property") is phased so that it is made subject to this Declaration at different times. Upon recording of a Supplemental Declaration, the Annexed Property described therein shall be subject to all of the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions set forth in this Declaration, except to the extent specifically stated in the Supplemental Declaration or as modified thereby. Any such Supplemental Declaration may impose upon the Annexed Property described therein, additional covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions than those set forth in this Declaration, taking into account the unique and particular aspects of the Annexed Property covered thereby and of the proposed development thereof. Furthermore, the Declarant shall have the right to reserve in such Supplemental Declaration any development rights that Declarant considers necessary or appropriate, provided that such provision shall not extend the termination date for the exercise of Declarant's reserved rights as set forth in this Section.

- (y) Declarant reserves easements and the right to use easements over and across Cimarrona Ranch as may be reasonably necessary for: (1) the purpose of discharging Declarant's obligations or rights, whether arising under this article or otherwise reserved or stated elsewhere in this Declaration; and (2) the development of access and utilities for the Annexable Property and other adjacent or nearby properties.



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Declarant offers no assurances regarding the order in which the Cimarrona Ranch may be subject to the exercise of each development right herein enumerated. The time limits within which each of these rights must be exercised are the sooner in time of: (i) the time limit set forth in CCIOA; (ii) when the Declarant or an assignee of the Declarant's Reserved Development Rights owns no Ranch estates in Cimarrona Ranch; or (iii) January 1, 2030.

Any rights created or reserved in this Section for the benefit of the Declarant may be transferred to any person or entity by an instrument describing the right or rights transferred and recorded in Archuleta County. Such instrument shall be executed by the transferor Declarant and the transferee. The provisions of CRS 38-33.3-304 shall apply to any transfer of Declarant's reserved rights.


**8.10 Owner Prohibitions Regarding Easements.** Owners shall not have any rights whatsoever to grant to any person, entity, governmental organization, or other third parties the right or rights to use any Roads, Utility easements, Water Rights, bridle paths, or other Association common elements. Further, Owners may not create or establish any easements over their Ranch Estate to any person, entity, governmental organization or other third parties, that would allow them to gain access to adjoining properties from and off the Cimarrona Ranch. Any attempt to grant any right or rights described in this section shall be null and void. Declarant, during Declarant's Control Period, and the Association may grant, at their discretion, any such rights to third parties.

## **9. WATER RIGHTS.**

**9.1 Water Rights.** The principal Water Rights associated with the Cimarrona Ranch are those Water Rights which have historically existed on, and been for the benefit of, the Cimarrona Ranch property, those Water Rights granted to Cimarrona Ranch property by Water Court decree, those Water Rights granted to Cimarrona Ranch land by agreement with adjoining landowners, and, those Water Rights granted to Cimarrona Ranch property described in the Water Development Plan. In order to protect all Water Rights, Water Amenities, existing ditches, natural drainage ways, and water ways, are expressly excluded from ownership by Owners of Ranch Estates unless such Ranch Estate is owned by Cimarrona. Cimarrona shall convey the Water Rights and common Water Amenities to the Association not later than the date Seller has conveyed to a Buyer the last Ranch Estate it has available for sale. The Association shall thereafter own and be responsible for the use, protection, maintenance, repair, and operation of the Water Rights and the common Water Amenities.

**9.2 Water System and Water System Facilities.** Cimarrona and the Association may have water systems and water system facilities to:

- (a) Provide for the irrigation of Cimarrona agricultural lands;

  
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(b) Provide water conveyancing channels, ditches, and Water Amenities throughout Cimarrona Ranch, including individual Ranch Estates;

(c) Maintain historic water flows within historic water drainage areas;

(d) Develop the Ranch Center area and other common Association properties;

(e) Develop domestic water; and

(f) Develop a central domestic water system for all or any part of the Cimarrona Ranch and other properties, including development by: (i) private water companies established by Declarant or the Association; and/or (ii) a water district such as the Pagosa Area Water and Sanitation District. In the event that agreement is reached with the Pagosa Area Water and Sanitation District for the provision of domestic water to Cimarrona Ranch, Declarant shall have the power and right to execute any and all documents necessary to annex or include all or any part of Cimarrona Ranch into the Pagosa Area Water and Sanitation District. Declarant shall have the further right to develop, construct, maintain and repair water main lines for the distribution of domestic water within the road easements as shown on the Plat. The ownership and responsibility for maintenance of such lines shall be with the Declarant until such time as the lines are dedicated to and accepted by the Pagosa Area Water and Sanitation District. Until such time as the dedication of such main lines is made and accepted, the Declarant will be purchasing water in bulk from the Pagosa Area Water and Sanitation District and shall be entitled to charge nondiscriminatory and uniform water availability charges, tap fees, water usage fees and an additional fee for maintenance, repairs and administration, to the extent allowed by the agreement with the Pagosa Area Water and Sanitation District and Colorado law. Such charges shall be for the recovery of costs of water, availability charges and maintenance, repair, administrative and related expenses only and shall not result in a profit to the Declarant. Any agreement with the Pagosa Area Water and Sanitation District which provides for the Declarant to recover the costs of development, construction and repair of the main water lines through the granting of rights to connect to such lines by property owners other than in Cimarrona Ranch shall be for the sole benefit of the Declarant. Ranch Estate Owners shall be responsible for paying a one time utility tap fee and road construction fee at the closing of the purchase of the Ranch Estate from the Declarant and shall further be responsible for the cost of installation of the individual water meter and service line from the main line to the building site on each Ranch Estate.

The development of any agricultural or irrigation water systems or water system facilities may include ditches, water lines, sprinklers, headgates, laterals, pipes, wells, pump stations, pump station sites, culverts, storage tanks, and other facilities reasonably needed for such water related improvements. The cost and responsibility of the operation, maintenance, repair and replacement of such agricultural or irrigation



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water systems and water system facilities shall be the responsibility of the Association; provided, however, that the Association may require Ranch Estate Owners benefited by such systems or facilities to be responsible for the operation, maintenance, repair, replacement, and installation of such systems and facilities as they exist for the benefit of the Owners of Ranch Estates.

9.3 **Wetlands.** Historic wetlands on Cimarrona Ranch may, at the discretion of Cimarrona and the Association, and in conformance with federal and state law, continue to remain and be maintained as wetlands. There are hereby reserved to Cimarrona and the Association perpetual easements over and across all Ranch Estates for the purposes of identifying, mapping, and assisting in the maintenance of historic wetlands. The Association's determination of what constitutes "historic wetlands" shall be conclusive. The development of any Ranch Estate shall not result in the dry up of historic wetlands, except as may be approved or mandated by the Association. The development of any Ranch Estate may add to wetlands area so long as such additions are approved by the Association and are not detrimental to the Water Rights.

9.4 **Domestic Water.** Cimarrona is engaged in negotiations to supply water to the Ranch Estates through a domestic water system and agreement with the Pagosa Area Water and Sanitation District. In the event such negotiations lead to an agreement between Cimarrona and the Pagosa Area Water and Sanitation District all Cimarrona Ranch property, including Ranch Estates, will be included in or annexed to and become part of the Pagosa Area Water and Sanitation District. Such inclusion or annexation may result in the prohibition of domestic water wells on individual Ranch Estates.

In the event that negotiations with the Pagosa Area Water and Sanitation District do not, by June 1, 1998, result in an agreement for providing water to Cimarrona Ranch, in addition to the Water Rights granted and reserved in this Section 9 to the Association and Cimarrona, if a Ranch Estate is unable to obtain domestic water by an exempt domestic well on their Ranch Estate, Cimarrona and/or the Association may, at their discretion, provide domestic water to the Owner of such Ranch Estate through a plan of augmentation utilizing Water Rights. There is hereby reserved to Cimarrona and the Association perpetual easements over and across all Roads for the purpose of providing domestic water within the Cimarrona Ranch development. Cimarrona and/or the Association may drill wells on Ranch Estates outside of its Developable Areas for the purpose of providing this domestic water to other Ranch Estates or for use by the Association, provided the Owner of the Ranch Estate who is not benefited by such well shall have no responsibility with regard to the drilling costs, maintenance, repair, and replacement of the domestic well, its Water System, and Water System Facilities, needed to provide domestic water to another Ranch Estate. Cimarrona's and/or the Association's determination of whether or not water from its Water Rights shall be provided to a Ranch Estate shall be conclusive.

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Nothing in this section shall be construed to limit the rights of Cimarrona and/or the Association to drill, develop, use and maintain water wells for non-domestic purposes on any Ranch Estate to the extent allowed by law and any agreement with the Pagosa Area Water and Sanitation District.

#### 9.5 Ditch and Pond Easements.

There are hereby created and reserved unto Cimarrona and the Association perpetual easements over and across Cimarrona Ranch to develop Water Rights for the benefit of the development of the Cimarrona Ranch by Cimarrona, and if required by law, adjoining property owners, for all ditches, water systems, water system facilities, ponds, water conveyancing channels, other Water Amenities, historical drainages, central domestic water systems, and ditch irrigation water. Easements for ditches, easements for central water systems, and easements for other water conveyancing channels shall not, if practicable, exceed fifteen (15) feet on either side of the centerline of such easement area. The easements may be used for the operation, maintenance, repair and replacement of any water improvements placed within it and shall include reasonable ingress and egress related thereto.

These easements include the right on the part of Cimarrona and the Association to construct, operate, maintain, repair, enlarge, relocate or replace ditches, water conveyancing channels, Water Amenities and other water improvements, water systems, water system facilities, and central water systems. Ranch Estate Owners shall be responsible for any damage to any Water Rights, water systems, water system facilities, ditches, water conveyancing channels, ponds, Water Amenities, or natural drainage channels caused by any development activity carried on by the Owner. The Owner shall, at his expense, take all measures necessary to avoid any such interference including, but not limited to, the installation of necessary culverts and the construction of improvements required by DRC. Ranch Estate Owners may be responsible, upon Association demand, for costs related to the Association providing water, Water Rights, Water Amenities and domestic water to or through a Ranch Estate.

9.6 No Impairment of Water Rights by Owners. Notwithstanding that Owners may be entitled to obtain exempt domestic wells if water service from the Pagosa Area Water and Sanitation District is not available to Ranch Estates and may choose to adjudicate individual Water Rights appurtenant thereto, in no event shall Owners be entitled to have any standing, by virtue of ownership of said exempt domestic wells and Water Rights appurtenant thereto, to object to any application for a well permit or any Water Rights applications, including but not limited to, a change of water right, approval of any augmentation plans or new water right that may be filed by Cimarrona or the Association. Each Owner hereby irrevocably constitutes and appoints Cimarrona and/or the Association its attorney-in-fact to file, join in or object, as they deem appropriate in their sole discretion, to any Water Rights application affecting any Cimarrona Ranch lands or its Water Rights.

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**10. CIMARRONA RANCH CENTER AND RANCH OPERATIONS.**

**10.1 Water Development Plan.** Cimarrona, in cooperation with the Association, shall develop a Water Development Plan, which may be included as part of the Design Review Guidelines, providing for the ongoing implementation, improvement, management and monitoring of all irrigation and agricultural Water Rights related to Cimarrona Ranch. Thereafter the Association, acting through the ranch manager and Association employees or agents, shall be responsible for the implementation of the Water Development Plan. Should the Association desire to thereafter change any provisions of the Water Development Plan, the approval of Cimarrona, during its Declarant Control Period, shall be required. The Water Development Plan may be reviewed annually by the Association and changes or additions thereto may be made so long as such changes or additions are consistent with the provisions of this Declaration.

**10.2 Ranch Center.** The Ranch Center Easement Area is located on Parcel #9 as shown on the Map and the use of which shall be controlled by the Association. Ranch Center may include picnic, recreation, meeting or gathering facilities or structures as may be made or installed by Cimarrona or the Association. Cimarrona shall not be obligated to construct and improvements on the Ranch Center area. All necessary easements for the construction, maintenance, operation, and repair of all improvements at Ranch Center are hereby granted to Cimarrona and the Association. Use of Ranch Center shall be subject to and consistent with this Declaration and any of its applicable terms, and the Association, in cooperation with Cimarrona, may promulgate rules and regulations for the use of Ranch Center and its improvements.

**10.3 Ranch Center Liability.** Use of Ranch Center shall be strictly limited to those uses reasonably permitted by this Declaration, the Association, and entities contracted with the Association. Users of Ranch Center shall assume all risks in connection with such uses and such users shall at all times be responsible for supervising their activities in or about Ranch Center, including members of their families, their permitted guests or invitees. The Association will not provide supervision of activities by users of Ranch Center amenities, bridle paths, or other common amenities or properties within and throughout the Cimarrona Ranch.

**10.4 Ranch Operations.** Except for Private Drives which are the responsibility of Owners, the Association shall be responsible for the operation, maintenance and repair of the Roads and Utilities within the Cimarrona Ranch subdivision. The Association will undertake snow removal on all Roads, including Private Drives, within the Cimarrona Ranch. The Association shall also be responsible for the operation, maintenance and repair of other Cimarrona Ranch common areas and improvements related thereto, including, but not limited to, those operations described in Section 8.5, bridle paths and Ranch Center. The Association shall promulgate rules and regulations

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for the operation and use of these Association common areas, including user fees and limits on usage.

10.5 Association Services. The Association shall provide Association member and guest services as may be approved by the Board from time to time. The Association may, for some of the services, establish and schedule surcharges to be paid by those utilizing such services.

## 11. VARIANCES FROM DECLARATION.

11.1 Variances. The Association may, by the majority vote of the members of its Board, grant reasonable variances from the strict compliance with the provisions of this Declaration in the case of undue hardship. The Owners of all of the Ranch Estates shall be given at least twenty (20) days advance written notice setting forth the time and place of the meeting of the Board at which any request for a variance is to be considered and describing the requested variance. Owners or their representatives shall be afforded the opportunity to appear before the meeting of the Board and be heard with respect to the requested variance. Separate rules and regulations and procedures related thereto may be developed regarding variances from Design Review Guidelines for enforcement by the DRC.

## 12. TERM, AMENDMENT AND TERMINATION OF COVENANTS.

12.1 Term. The term of this Declaration shall be perpetual.

12.2 Amendments. Commencing on the date of recording hereof and continuing until the closing (i.e., recording of the deed) on the sale of the first Ranch Estate by Cimarrona, Cimarrona shall have the absolute right to amend any provision of this Declaration, except as limited by Section 8.9. After the expiration of the period described in the preceding sentence or earlier written relinquishment by Declarant, if any, this Declaration may, except as limited by Section 8.9, be amended by a vote of 66.7% of the votes entitled to be cast by the Members (including Declarant) of the Association; provided that such amendment shall not adversely affect marketability of title to any Ranch Estate. Except as provided in Section 8.9, consent of Mortgagees shall not be required in order to amend this Declaration. The Declaration shall be amended at a meeting called for that purpose and within six (6) months after the date of such meeting there shall be recorded in the real estate records of Archuleta County, Colorado, an instrument evidencing such amendment. Any instrument amending this Declaration shall be duly executed by the Declarant or President and Secretary of the Association, as the case may be. Notwithstanding the preceding, no amendment shall be permitted that is inconsistent with any of the rights granted, retained or reserved to Cimarrona hereunder or which attempts to enlarge or expand any obligation of Cimarrona hereunder unless such amendment is consented to in writing by Cimarrona. All amendments shall be consistent with the provisions of C.R.S. § 38-33.3-217.

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12.3 Rule Against Perpetuities. If any of the terms, covenants, conditions, easements, restrictions, uses, limitations or obligations created by this Declaration shall be unlawful or void for violation of (i) the rule against perpetuities or some analogous statutory provision, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common law rules imposing like or similar time limits, such provision shall continue only for the period of the life of John F. Kennedy, Jr., his now living descendants, and the survivor of them, plus twenty-one (21) years.

12.4 Termination. This Declaration, and the common interests of the Owners in Association Property, may be terminated only if all Owners and Eligible Mortgage Holders agree to such termination by an executed, acknowledged instrument duly recorded in the real estate records of Archuleta County, Colorado. This Declaration shall also terminate in the event of a taking of all of Cimarrona Ranch by condemnation, eminent domain, or termination as otherwise (except for voting) provided by C.R.S. § 38-33.3-218.

12.5 Disbursement of Proceeds. Upon the termination of this Declaration all property owned by the Association shall be disposed of, with the proceeds generated being disbursed, as provided by C.R.S. § 38-33.3-218.

### 13. CONDEMNATION.

13.1 Condemnation of Association Property. If any Association property is taken or condemned by any authority having the power of eminent domain, all compensation and damages on account of the taking of the Association Property, exclusive of compensation for consequential damages to affected Ranch Estates, shall be payable to the Association and such proceeds shall be used promptly by the Association to the extent necessary for repair and reconstruction of remaining Association property in as substantial compliance to the original plan of development as possible. If there is an award in excess of the amount necessary to so substantially repair or reconstruct such remaining Association property, it shall, at the Board's discretion, be either refunded or retained by the Association for such uses as it deems appropriate.

### 14. GENERAL PROVISIONS.

14.1 Sales Activity. Cimarrona may conduct, on Cimarrona Ranch, sales activities, including, but not limited to, the showing of Ranch Estates by Cimarrona and its designated sales agents, maintaining sales and management offices, promoting or marketing events, and maintaining signs advertising Cimarrona Ranch. Cimarrona may locate, or relocate, any sales and management offices on Ranch Estates owned by Cimarrona. Cimarrona reserves the right, at its discretion, to remove from Cimarrona Ranch any or all of its sales and management offices, including all improvements related thereto.

  
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14.2 **Conflict with Plats.** In the event of any conflict or inconsistency between the provisions of this Declaration and any Plats described in Section 2.27 above, affecting Cimarrona Ranch, including the Plat notes thereon, the provisions of said plats or plat notes, as the case may be, shall govern and control and this Declaration shall automatically be amended, but only to the extent necessary to conform the conflicting provisions hereof with the provisions of said plats, including any plat notes.

14.3 **Conflict with Design Review Guidelines.** In the event of any conflict or inconsistency between the provisions of this Declaration and the Design Review Guidelines, the provisions of this Declaration shall govern and control and the Design Review Guidelines shall automatically be amended, but only to the extent necessary to conform the conflicting provision therein with the provisions of this Declaration.

14.4 **Rights of Eligible Mortgage Holders.** Eligible Mortgage Holders shall be entitled to:

(a) upon request, inspect the books and records of the Association during normal business hours;

(b) receive written notice of meetings of the Association where the consent of any Eligible Mortgage Holder is required;

(c) upon request, obtain copies of Association financial statements;  
and

(d) where the Owner of any Ranch Estate shall be deemed delinquent in the payment of any Assessment, any Eligible Mortgage Holder of said Ranch Estate shall be given written notice of such delinquency.

14.5 **Provisions Incorporated in Deeds.** Each provision contained in this Declaration shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any Ranch Estate is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument.

14.6 **Number and Gender.** Unless the context shall otherwise provide, a singular number shall include the plural, a plural number shall include the singular, and the use of any gender shall include all genders.

14.7 **No Dedication.** Unless expressly provided, nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of Cimarrona Ranch to the public or for any public use.

14.8 **Notices.** Any notice permitted or required to be delivered as provided in this Declaration 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 three (3) days after a copy of the same has been posted in the United States mail, postage prepaid for first

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class mail and addressed to the receiving party at the address last given by such party to the Association. Any notice to the Association shall be sent to such address as it may from time to time designate in writing to each Owner.

14.9 Colorado Law. The interpretation, enforcement or any other matters relative to this Declaration shall be construed and determined in accordance with the laws of the State of Colorado. All parties to this Declaration, or those parties who are benefited by this Declaration, hereby consent to venue for any action commenced with respect to this Declaration being in the District Court in and for the County of Archuleta, State of Colorado.

14.10 Disclaimer. No representations or warranties of any kind, express or implied, have been given or made by Declarant, or its agents or employees, in connection with Cimarrona Ranch, or any portion thereof, or any improvement thereon, its physical condition, zoning, compliance with applicable laws, fitness or intended use or operation, cost of maintenance or taxes except as expressly set forth in this Declaration or except as set forth in any Disclosure Statement required to be given under applicable rules of the Colorado Real Estate Commission.


14.11 Designation of Successor. For purposes of this Declaration and the easements, dedications, rights, privileges and reservations set forth herein, a successor and assign of Cimarrona shall be deemed a successor and assign only as specifically designated by Cimarrona by instrument recorded in the real estate records of Archuleta County, Colorado, and only with respect to the particular rights or interests specifically designated therein.

14.12 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

14.13 References to Standards. Wherever in this Declaration there is reference to County standards, or other federal, state or local rules, laws or regulations, such references shall automatically be waived, released, modified or amended, as the case may be, to correspond with any subsequent waiver, release, modification or amendment of such rules, laws, regulations or standards.

14.14 Run with the Land. Declarant, for itself, its successors and assigns, hereby declares that all of Cimarrona Ranch shall be held, used and occupied subject to the provisions of this Declaration, and to the covenants and restrictions contained herein, and that the provisions hereof shall run with the land and be binding upon all persons who hereafter become the Owner of any interest in Cimarrona Ranch.

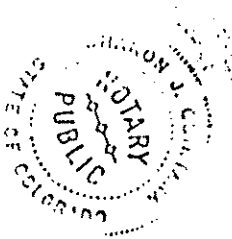
14.15 CCIOA Provisions. In the event of any conflict between the provisions of CCIOA and the provisions of this Declaration, or the articles of incorporation or the bylaws of the Association, the provisions of CCIOA shall control.

  
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14.16 **Consent Not Required.** All rights, benefits, and reservations granted to, or reserved by, Cimarrona within this Declaration may be exercised by Cimarrona without obtaining the consent of any Owner, Mortgagee, or the Association. All rights, benefits and reservations granted to, or reserved by, the Association may, by majority vote of the Board, be exercised by Cimarrona without obtaining the consent of any Owner or Mortgagee. However, consent from Cimarrona must be obtained by the Association as otherwise required by this Declaration.

14.17 **Binding Effect.** Each Owner, his lessees, their families and guests, the heirs, successors or assigns of an Owner, or any Mortgagee, and any other persons using or occupying a Ranch Estate, shall be bound by, and shall strictly comply with the provisions of this Declaration, the Bylaws, the Articles, any deed restrictions, this Declaration, and all rules, regulations and agreements lawfully made by the Association.

IN WITNESS WHEREOF, Declarant has executed this Declaration of Covenants for Cimarrona Ranch this 20<sup>th</sup> day of JANUARY, 1998.



CIMARRONA, LLC, a  
Colorado limited liability company

By *Fred W. Schmidt*  
Fred W. Schmidt, Manager

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF ARCHULETA    )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of January, 1998, by Fred W. Schmidt, Manager of Cimarrona, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 2-8-01

*Sharon J. Piantana*  
Notary Public

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**EXHIBIT "A"**

Legal parcels of real property located in the sections indicated:

Section 36, Township 36N, Range 1W of the N.M.P.M., Archuleta County, Colorado  
Section 1, Township 35N, Range 1W of the N.M.P.M., Archuleta County, Colorado  
Section 6, Township 35N, Range 1E of the N.M.P.M., Archuleta County, Colorado  
Section 31, Township 36N, Range 1E of the N.M.P.M., Archuleta County, Colorado  
Section 7, Township 35N, Range 1E of the N.M.P.M., Archuleta County, Colorado

less and except any real property owned by the United States Government, the United States Forest Service, or the Bureau of Land Management.

Note: Privately owned real estate parcels within the above referenced sections may be annexed in less than 35 acres per parcels if such size was previously platted or legally created at that smaller dimension.

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POST

TO ALL  
SECTIONS

"PART" in  
PORTION FIELD

"VAGUE LEGAL"  
in  
REMARKS

ALSO POST TO  
#3'S : CIMARRONA RANCH