

DECLARATION OF PROTECTIVE COVENANTS FOR ASPEN ROSE RANCH

Aspen Rose Ranch, Inc., the owner of real property situated in the County of Las Animas and State of Colorado, known as Aspen Rose Ranch and legally described on Exhibit A attached hereto, in order to protect the living environment and preserve the values in Aspen Rose Ranch, does hereby declare that the land shall be held, leased, sold and conveyed, subject to the covenants, restrictions and provisions hereinafter set forth, and that each covenant, restriction and provision shall inure to and run with the land and shall apply to and bind the successors and assigns of the present owners. The property comprising the above-mentioned land is made specifically subject to the following described covenants.

I. INTENT: It is the intent of these covenants to protect and enhance the value, desirability and attractiveness of said property, and to prevent the construction of improper or unsuitable improvements. Restrictions are kept to a minimum while keeping in constant focus the right of property owners to enjoy their property in attractive surroundings free of nuisances, undue noise, and danger. Further, it is intended that the natural environment be disturbed as little as possible.

II. PROPERTY OWNERS ASSOCIATION: The Aspen Rose Ranch Property Owners Association, Inc. will be operated as per the bylaws of the Association,

(a) **Members:** Every property owner will automatically be a member of the Property Owners Association.

(b) **Purpose:** The purpose of the association is to use its authority, as given in the bylaws:

(1) To enforce these protective covenants.

(2) To assess property owners yearly dues. Should any property owner fail to pay assessments when due, the Property Owners Association may file a lien against the owner for collection purposes.

(3) To provide upkeep and improvements to all non-county roads in Aspen Rose Ranch.

(4) To represent all property owners in matters of mutual interest.

(5) To administer and lease grazing rights.

III. DWELLINGS: No primary dwelling shall be built on Aspen Rose Ranch that is less than 1,200 square feet of living space. Modular homes must be given the prior approval of the Property Owners Association Board. Any structure must be on permanent footing and foundation. No commercial activity shall be permitted unless approved by the Property Owners Association Board.

IV. SETBACKS: No structure may be erected within fifty feet of the right-of-way line of any road within Aspen Rose Ranch, nor within twenty five feet of any side or rear line of any parcel unless approved by the Property Owners Association Board.

V. TRASH AND RUBBISH: Rubbish, garbage or other waste shall be kept and disposed of in a sanitary manner, and all containers shall be kept in a clean, sanitary condition so as not to endanger wildlife.

VI. UTILITY EASEMENTS: A fifteen (15) foot utility easement is hereby set aside on each side of all side and common rear lot lines and a thirty (30) foot utility easement is hereby set aside on the interior side of all exterior lot lines. Utility easements may be used for recreational purposes including, but not limited to, hiking, biking and horseback riding. Utility easements must be maintained in as natural a state as possible; therefore no tree cutting or fencing will be permitted on the utility easements without prior approval from the Property Owners Association Board.

VII. NUISANCES: No owner shall cause or allow the origination of excessive odors or sounds from his parcel. No owner shall cause or allow any other nuisances of any kind whatsoever to exist on his parcel. In case of a dispute, at the request of an owner, the Property Owners Association Board shall make the final determination of what constitutes a nuisance.

VIII. ANIMALS: Animals will be allowed on Aspen Rose Ranch for the personal use of parcel owners. Any animals raised for commercial activity must be approved by the Property Owners Association. Commercial feed lots and swine shall be prohibited from Aspen Rose Ranch.

IX. MOTOR VEHICLES: No motorized vehicle which is either non-operational or non-licensed shall be kept or stored on any parcel, unless said vehicle is kept or stored in a fully enclosed building.

X. TEMPORARY RESIDENCES: No structure of temporary character, recreational vehicle, camper unit, trailer, basement, tent or accessory building shall be used on any parcel as a residence. Recreational vehicles, camper units and tents may be used for vacation camping for periods not to exceed ninety (90) consecutive days in any calendar year.

XI. MOBILE HOMES: Mobile homes shall not be permitted on any parcel within Aspen Rose Ranch.

XII. LAND USE: Commercial wood harvesting, mining (including the removal of soil, gravel or rock) and oil or gas production is prohibited. Further subdivision of less than thirty-five acres is prohibited.

XIII. ENFORCEMENT: Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant.

XIV. TERMS OF COVENANTS: These covenants and restrictions are to run with the land and shall remain in full force and effect for ten years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten years, unless an instrument signed by not less than two-thirds majority of the land owners of the parcels has been recorded, changing said covenants in whole or part.

XV. SEVERABILITY: Invalidation of any of these covenants or any part thereof by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

XVI. COUNTY REGULATIONS: To the extent that the applicable county or other governmental regulations, rules, codes, ordinances or laws are more restrictive in their allowable land utilization than these covenants, they shall supersede these covenants and govern at all times.

XVII. COUNTERPARTS: This instrument may be executed in a number of counterparts, any one of which may be considered an original.

XVIII. FEES AND ENFORCEMENT: All parcels within Aspen Rose Ranch shall be subject to assessment for Property Owners Association fees in an amount to be determined by the Association. Assessments may be increased only by majority vote of members of the Association. In no event shall Assessments exceed \$295.00 per year except that this amount may be increased by the greater of 12% per annum or the percentage increase, if any, in the "Consumer Price Index-All Urban Consumers" for Denver, Colorado, between January 1 of the year in question and of the preceding year. Any increase in Association dues will also require written assurance that any such increase will not cause additional regulatory or other requirements to be imposed upon the Association, Declarant or any property owner.

Assessments for fees will commence upon conveyance at the date of closing. Whenever the obligation to pay fees arises after the start of the calendar year, the first year's fees will be prorated to the commencement date for the parcel involved. Fees shall be payable in advance in January of each year. Each property owner shall be responsible for payment of all fees and any costs (including attorney fees) necessary to enforce any violation of these covenants affecting his or her parcel. Failure to pay fees shall be deemed a violation of these covenants. Unpaid fees and costs shall also be a lien and which lien may be foreclosed in the same manner as a mechanics lien.

Developer does not pay assessments but is responsible for contributing any necessary funds so that any obligation of the Association is met by the Developer until such time as the Developer transfers his interest in and control of the Association.

14. TIME OF ESSENCE/REMEDIES: Time is of the essence hereof. If any note or check received as earnest money hereunder or any other payment due hereunder is not paid, honored or tendered when due, or if any other obligation hereunder is not performed or waived as herein provided, there shall be the following remedies:

- (a) IF BUYER IS IN DEFAULT: Seller may elect to treat this contract as cancelled, in which case all payments and things of value received hereunder shall be forfeited and retained on behalf of Seller, and Seller may recover such damages as may be proper, or Seller may elect to treat this contract as being in full force and effect and Seller shall have the right to specific performance or damages or both.
- (b) IF SELLER IS IN DEFAULT: Buyer may elect to treat this contract as cancelled, in which case all payments and things of value received hereunder shall be returned and Buyer may recover such damages as may be proper, or Buyer may elect to treat this contract as being in full force and effect and Buyer shall have the right to specific performance or damages or both.
- (c) COSTS AND EXPENSES: Anything to the contrary herein notwithstanding, in the event of any arbitration or litigation arising out of this contract, the arbitrator or court shall award to the prevailing party all reasonable costs and expenses, including attorney fees.

15. EARNEST MONEY DISPUTE: Notwithstanding any termination of this contract, Buyer and Seller agree that, in the event of any controversy regarding the earnest money and things of value held by Broker or closing agent, unless mutual written instructions are received by the holder of the earnest money and things of value, Broker or closing agent shall not be required to take any action but may await any proceeding, or at Broker's or closing agent's option and sole discretion, may interplead all parties and deposit any monies or things of value into a court of competent jurisdiction and shall recover court costs and reasonable attorney fees.

16. ALTERNATIVE DISPUTE RESOLUTION; MEDIATION: If a dispute arises between the parties relating to this contract, and is not resolved, the parties and brokers involved in such dispute (Disputants) shall first proceed in good faith to submit the matter to mediation. The Disputants will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. In the event the entire dispute is not resolved within thirty (30) calendar days from the date written notice requesting mediation is sent by the Disputant to the other(s), the mediation, unless otherwise agreed, shall terminate. This section shall not alter any date in this contract, unless otherwise agreed.

17. ADDITIONAL PROVISIONS:

- (a) Refer to the Developer's disclosure attached herewith and incorporated as part of this contract.

18. MINERALS: Buyer understands that the United States Government, State of Colorado or previous title holders may have reserved all or part of the mineral rights in said premises. Seller, however, agrees to convey all of the rights, title and interest in and to any minerals owned by Seller on said parcel or parcels herein conveyed.

19. PROPERTY OWNERS ASSOCIATION: A Property Owners Association has been formed by Seller for Aspen Rose Ranch to help enforce the Protective Covenants, collect assessments, maintain non-county roads, and represent all owners in matters of mutual interest. Membership in the Association is mandatory. Assessments are \$295.00 per year and are the responsibility of Buyer. Developer does not pay assessments. Developer will be responsible for road maintenance until 80% of the parcels are sold. Members of the Association, including the Developer, are entitled to one vote per parcel owned. Developer has no financial interest in, nor will it derive any income or profit from the Association. Developer has no right to borrow or to authorize borrowing from said Association.

20. ACCESS, UTILITIES AND ROADS: Telephone service, water well and sewage disposal are the responsibility of the Buyer. Aspen Rose Ranch, Inc. will provide electric service to the property line of each parcel at a cost of \$2,900.00 per parcel. Buyer will either pay \$2,900.00 per parcel at closing or execute a note payable to Aspen Rose Ranch, Inc. in the amount of \$2,900.00 at 12% A.P.R. for a 2-year term at \$136.52 per month. Further information is provided in the Developer's Disclosure attached herewith and made part of this contract. PLEASE CAREFULLY READ THE DEVELOPERS DISCLOSURE.

21. SELLING COMPANY / BROKER RELATIONSHIP: The Selling Broker, Land Properties, Inc., and its sales persons have been engaged as Seller's Agent. Selling company has previously disclosed in writing to the Buyer that different relationships are available which include Buyer Agency, Seller Agency, Subagency or Transaction Broker. All sales will be made by Brokers and sales people licensed by the State of Colorado unless specifically exempted pursuant to C.R.S. §12-61-101 (4). Buyer is hereby notified that some agents of Land Properties, Inc. are shareholders or officers of Aspen Rose Ranch, Inc.

22. RECOMMENDATION OF LEGAL COUNSEL: By signing this document, Buyer and Seller acknowledge that Land Properties, Inc. has advised that this document has important legal consequences and has recommended the examination of title and consultation with legal and tax or other counsel before signing this contract.

23. NOTICE TO BUYER: Any notice to Buyer shall be effective when received by Buyer.

24. NOTICE TO SELLER: Any notice to Seller shall be effective when received by Land Properties, Inc.

25. AMENITIES AND ACCOMMODATIONS: There are no amenities or accommodations promised or offered.

26. MODIFICATION OF THIS CONTRACT: No subsequent modification of any of the terms of this contract shall be valid, binding upon the parties, or enforceable unless made in writing and signed by the parties.

27. ENTIRE AGREEMENT: This contract constitutes the entire contract between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this contract. Both parties acknowledge that they have not relied on any statements of any real estate agent, Broker or Developer which are not herein expressed.

28. DEVELOPERS NAME AND ADDRESS: Aspen Rose Ranch, Inc., 216 N. Spruce Street, Colorado Springs, Colorado 80905. There have been no judgements or administrative orders issued against the Seller, Developer, Property Owners Association, or managing entity which are material to the subdivision plan.

29. NOTICE OF ACCEPTANCE; COUNTERPARTS: This proposal shall expire unless accepted in writing, by Buyer and Seller, as evidenced by their signatures below, and the offering party receives notice of such acceptance on or before _____, 199__ (Acceptance Deadline). If accepted, this document shall become a contract between Seller and Buyer. A copy of this document may be executed by each party, separately, and when each party has executed a copy thereof, such copies taken together shall be deemed to be a full and complete contract between the parties. It is agreed that fax copies of the executed contract or any related documents shall be fully binding and effective for all purposes. Fax signatures on documents will be treated the same as original signatures. The parties to this contract understand that they must physically execute and deliver all the original documents prior to closing.

30. RIGHT OF RESCISSION: PURSUANT TO COLORADO LAW, THE UNDERSIGNED IS HEREBY NOTIFIED OF THE FOLLOWING RIGHTS OF RESCISSION. IN ACCORDANCE WITH C.R.S. 12-61-405 (1) (I) THE BUYER HAS THE RIGHT TO RESCIND THE AGREEMENT WITH OR WITHOUT CAUSE AT THE BUYER'S SOLE OPTION, BY TELEGRAM, MAIL OR HAND DELIVERY AT ANY TIME WITHIN FIVE (5) CALENDAR DAYS FOLLOWING THE DATE OF THE SIGNING OF THIS AGREEMENT BY BOTH PARTIES. SUCH REQUEST SHALL BE CONSIDERED MADE IF BY MAIL WHEN POSTMARKED AND IF BY TELEGRAM WHEN FILED FOR TRANSMISSION, AND IF HAND DELIVERY, WHEN DELIVERED TO LAND PROPERTIES, INC., 9995 SOUTH HIGHWAY I-25, TRINIDAD, COLORADO 81082. UPON RIGHT OF RESCISSION HAVING BEEN EXERCISED, THE SELLER SHALL REFUND THE BUYER'S MONEY WITHIN THIRTY (30) DAYS AFTER WRITTEN NOTICE HAS BEEN DELIVERED TO LAND PROPERTIES, INC. THIS RIGHT OF RESCISSION CANNOT BE WAIVED.

Buyer

Buyer

Date of Buyer's Signature

Date of Buyer's Signature

Buyer's Address

Buyer's Address

Seller: Aspen Rose Ranch, Inc., 216 N. Spruce Street, Colorado Springs, Colorado 80905

By _____
Title

Date of Seller's Signature

Land Properties, Inc. acknowledges receipt of the earnest money deposit specified in section 2, and confirms its Broker Relationship as set forth in Section 21.

Land Properties, Inc.

By _____
Title

Date