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**MASTER DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
COUGAR CANYON  
  
Trinidad, Colorado**

**THIS DECLARATION CONTAINS A MANDATORY ARBITRATION PROVISION IN SECTION 19.12 AND A WAIVER OF YOUR RIGHT TO A TRIAL TO A JUDGE OR TO A JURY AT SECTION 19.13. THIS ARBITRATION PROVISION AND WAIVER OF RIGHTS TO A TRIAL CANNOT BE AMENDED OR REMOVED WITHOUT CONSENT OF THE OWNERS AND THE MORTGAGE LIENHOLDERS.**

**After recording, return to: Ronald J. Snow, McGleim, Davenport, Severson and Snow, P.C.,  
1600 Stout Street, Suite 1600, Denver, Colorado 80202-3103**

**Rev. 5/10/06**

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Attachments:

Consent(s) of Lender(s)  
Exhibit A - Legal Description of Annexed Property

**THIS DECLARATION CONTAINS A MANDATORY ARBITRATION PROVISION IN SECTION 19.12 AND A WAIVER OF YOUR RIGHT TO A TRIAL TO A JUDGE OR TO A JURY AT SECTION 19.13. THIS ARBITRATION PROVISION AND WAIVER OF RIGHTS TO A TRIAL CANNOT BE AMENDED OR REMOVED WITHOUT CONSENT OF THE OWNERS AND THE MORTGAGE LIENHOLDERS.**

**MASTER DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
COUGAR CANYON**

This Master Declaration of Covenants, Conditions and Restrictions for Cougar Canyon is made by Trinidad Operations, Inc., a Colorado corporation (the "Declarant").

**RECITALS**

A. Declarant owns that real property described on Exhibit A, attached hereto and incorporated herein by this reference, which is intended to be submitted to this Declaration at this time ("Annexed Property"). The Declarant intends that the Annexed Property and any future property submitted to this Declaration and annexed to the Community as provided herein will be developed as a planned community.

B. The real property described on Exhibit A and which is submitted to this Declaration, together with additional real property which becomes subject to this Declaration in the manner hereinafter provided is referred to herein as the "Annexed Property." This Declaration is executed to (a) further a common and general plan for the Annexed Property, (b) enhance and protect the quality, value, aesthetic nature, desirability, and attractiveness of the Annexed Property, (c) provide a mechanism to review additions and changes to commercial, industrial, and residential structures located within the Annexed Property, (d) provide a mechanism for the enforcement of the provisions of this Declaration, and (e) define certain duties, powers, and rights of the Declarant and the Owners of Lots within the Annexed Property.

C. This Declaration does not provide for mandatory assessments upon Owners of Annexed Property and does not create a Common Interest Community, as defined by the Colorado Common Interest Ownership Act, C.R.S. § 38-33.1-103(8); therefore, this Declaration shall not be governed by the Colorado Common Interest Ownership Act.

D. Pursuant to C.R.S. § 32-1-1004, the Declarant, in imposing this Declaration on the Annexed Property, intends to empower Stone Ridge Metropolitan District No. 1 to furnish covenant enforcement and design review services in the Community and to use revenues therefor that are derived from the Annexed Property.

E. Declarant now desires to establish certain mutually beneficial easements, covenants, restrictions and equitable servitudes for the cooperative development, improvement, use, operation, maintenance, repair and enjoyment of the Cougar Canyon Subdivision (formerly known as the Stone Ridge Subdivision) situate in Trinidad, Colorado, under a general plan for the purpose of enhancing and perfecting the value, desirability and attractiveness of this Community.

F. There is no guarantee that all portions of the Annexable Property, as defined below, will be completed or added to the Community.

G. The Annexed Property and any portion of the Annexable Property made subject to this Declaration shall be part of a Community known as Cougar Canyon located in Trinidad, Colorado, which may include several different Neighborhoods. The Neighborhoods may contain different types of housing, buildings, and other improvements including, without limitation, detached single family homes, attached homes (duplexes), multi-family housing, such as townhomes and/or condominiums, fractional ownership residences, open space, parks, and commercial areas and improvements. Such Neighborhoods may (but are not required to) have separate Supplemental Declarations setting forth additional covenants, conditions and restrictions than those set forth in this Declaration, and may (but are not required to) have separate subassociations to administer such Neighborhood. Additional real estate known as the Annexable Property, defined below, may also be made subject to this Declaration, which may also include additional Neighborhoods. All or portions of the Annexable Property may be annexed to the Community and become subject to this Declaration by recording of a Supplemental Declaration as described below. A Supplemental Declaration may contain additional covenants, conditions and restrictions specific to a given Neighborhood which are in addition to this Declaration.

## DECLARATION

NOW, THEREFORE, Declarant hereby declares that the property described on Exhibit A attached hereto is Annexed Property and is hereby made subject to this Declaration and shall be owned, held, conveyed, encumbered, leased, improved, used, occupied, enjoyed, sold, transferred, hypothecated, maintained and altered subject to the following covenants, conditions, restrictions, limitations, reservations, exceptions and equitable servitudes. Further, Declarant hereby declares that as portions of the Annexable Property are annexed and made subject to this Declaration, such portions of the Annexable Property shall be owned, held, conveyed, encumbered, leased, improved, used, occupied, enjoyed, sold, transferred, hypothecated, maintained and altered subject to the following covenants, conditions, restrictions, limitations, reservations, exceptions and equitable servitudes. Once any portion of the Annexed Property or Annexable Property is annexed to this Declaration pursuant to the terms hereof, the terms hereof shall touch and concern such Annexed Property, and shall (i) run with the land and all parts thereof at law and as an equitable servitude; (ii) bind all Persons having or acquiring any interest in said property or any part thereof; (iii) inure to the benefit of and be binding upon every part of said property and every interest therein; and (iv) inure to the benefit of, be binding upon, and be enforceable by Declarant, its successors in interest, each Owner and each Owner's grantees, personal representatives, heirs, assigns and successors in interest, and the Metropolitan District and its successors in interest. The name of the Community created by this Declaration is Cougar Canyon. Nothing in this Declaration shall encumber or restrict any or all of the Annexable Property until and unless a Supplemental Declaration is executed and recorded with the Las Animas County Clerk and Recorder's Office which specifically subjects the Annexable Property to this Declaration as Annexed Property.

### 1. DEFINITIONS

1.1 General. The following sections define words and phrases which, as used in this Declaration, have the meaning set forth below. Other terms in this Declaration may be defined in specific provisions of the Declaration and shall have the meaning assigned by such definition. Defined words and phrases are indicated in this Declaration by capitalizing the first letter of a defined word or of each word in a defined phrase.

1.2 Annexable Property. "Annexable Property" means all real property located within a five (5) mile radius of the northwest corner of the Hotel Site as identified on the Stone Ridge Subdivision Map recorded December 22, 2004, at Reception No. 200400677352, Book 1044, Page 1140, Las Animas County, Colorado, records, specifically including, but not limited to, the real property known as:

Phases 2 through 16, inclusive, as stated in the Subdivision Map, Stone Ridge Subdivision Phases 1 through 16, Stone Ridge Addition to the City of Trinidad, County of Las Animas, State of Colorado, recorded on December 22, 2004, Reception No. 200400677370, in Book 1044, Page 1158, Las Animas County, Colorado, records.

Nothing in this Declaration shall encumber or restrict any or all of the Annexable Property until and unless a Supplemental Declaration is executed and recorded with the Las Animas County Clerk and Recorder's Office which specifically subjects the Annexable Property to this Declaration as Annexed Property. After all or any portion of the Annexable Property has been annexed into this Community and subjected to the governance of this Declaration as hereinafter provided, the use and enjoyment of such annexed property (including exercising any such rights and easements by any person) shall be subject to the terms and provisions of this Declaration.

1.3 Annexed Property. "Annexed Property" means and refers to the real property which is owned by the Declarant as described on Exhibit A attached hereto and, as of any particular time, those portions of the Annexable Property, as defined herein, which, pursuant to the provisions set forth herein, have been submitted to or annexed to this Declaration by a Supplemental Declaration. As of the time of recording this Declaration, no portion of the Annexable Property, other than the Annexed Property described on Exhibit A, has been submitted to this Declaration or been annexed. Accordingly, no portion of the Annexable Property yet constitutes Annexed Property.

1.4 Association or Master Association. "Association" or "Master Association" shall mean the Cougar Canyon Master Association, Inc. which shall be established for the purposes set forth in Article 9 of this Declaration.

1.5 Board. "Board" shall mean the Board of Directors of the Metropolitan District.

1.5 Builder. "Builder" shall mean and refer to a party that acquires a vacant Lot for purposes of constructing residential or commercial structures, or other structures or improvements on such Lot.

1.6 City. "City" means the City of Trinidad, Colorado, a municipal corporation.

1.7 Commercial Area. "Commercial Area" means any portion of the Community designated and zoned for commercial purposes as identified in the Planned Unit Development Documents, as amended.

1.8 Commercial Lot. "Commercial Lot" means any Lot or Tract located within a Commercial Area designated for commercial use.

1.9 Community. "Community" means, at any time, the Annexed Property or portions of the Annexable Property that have been made subject to this Declaration from time to time and thereafter deemed Annexed Property, which includes the area platted as the Stone Ridge Subdivision in Trinidad, Colorado, also known as the Cougar Canyon Resort and Subdivision.

1.10 Covenant Enforcement Committee. "Covenant Enforcement Committee" (sometimes referred to as "CEC") shall mean a committee of persons appointed by the Metropolitan District to enforce these Covenants and for the purposes set forth in Section 7.1 of this Declaration.

1.11 Declarant. "Declarant" means Trinidad Operations, Inc., a Colorado corporation, or any Person or group of Persons acting in concert with Trinidad Operations, Inc. who:

(a) As a part of a common promotional plan, offers to convey to a Purchaser such Declarant's interest in a Lot not previously conveyed to a Purchaser (defined below at Section 1.34); or

(b) Is granted or succeeds to any Special Declarant Right such as a Purchaser of a phase who is granted such rights or its successor(s) by Trinidad Operations, Inc.

The term "Declarant" shall also include one or more successors in interest who have been designated in writing (which writing shall be recorded in the Records) by the then existing Declarant and who have purchased or own all or a portion of the Property Annexed subject to this Declaration.

1.12 Declaration. "Declaration" means this Master Declaration of Covenants, Conditions and Restrictions for Cougar Canyon and the Annexable Property as recorded in the Clerk and Recorder's Office, Las Animas County, Colorado, together with any amendments or supplements to such documents.

1.13 Design Guidelines. "Design Guidelines" means the design criteria established by the Metropolitan District to accomplish the purpose and intent of this Declaration as more fully described at Article 6.

1.14 Design Review Committee. "Design Review Committee" (sometimes referred to as "DRC") means the committee established by the Metropolitan District for the purposes set forth in Article 6 and any other applicable provisions of this Declaration.

1.15 Developers. "Developers" means Trinidad Operations, Inc. or any Person who acquires Annexed Property with the intent of developing vacant land as platted Lots served by roads and utilities.

1.16 Development Period. "Development Period" means the period of time beginning upon the date of recording of this Declaration with the Las Animas County, Colorado Clerk and Recorder's Office and expiring upon the later of (a) twenty-five (25) years after recording of this Declaration; or (b) such shorter period as deemed necessary by the Declarant to comply with HUD, FHA, VA or other governmental mortgage entities' regulations.

1.17 Fees. "Fees" means fees, rates, tolls, charges, penalties and/or other assessment of the Metropolitan District as set forth in this Declaration and/or as may be established by the Board from time to time in accordance with Section 32-1-1001, for programs, facilities and services furnished by the Metropolitan District either under this Declaration or generally. Until paid all such fees shall be a lien against the property served or against which the fees have been allocated by the Board, and may be foreclosed in the manner provided by Colorado law.

1.17 Penalties. "Penalties or penalty" means any monetary fee imposed by the Metropolitan District against a Lot Owner or lessee due to (i) a violation of this Declaration or the Rules and Regulations by such Lot Owner, a member of the Lot Owner's family or a tenant or guest of the Lot Owner or a member of the family of a tenant of a Lot Owner; or (ii) the failure to pay Fees (including penalties) as the same are due and payable. A Penalty is a Fee of the District.

1.18 Golf Course. "Golf Course" means the Links at Cougar Canyon Golf Course located within the Stone Ridge Subdivision, Trinidad, Colorado, which Owners may elect to join as non-equity members based upon its separate membership plan.

1.19 Golf Facilities. "Golf Facilities" means the Golf Course and its related facilities, including but not limited to the pro shop, cart storage facilities, parking areas, lighting fixtures, and other amenities and improvements related to the operation of the Golf Course.

1.20 Golf Owner. "Golf Owner" means the title owner of the Golf Course, its successors and assigns.

1.21 Hotel Site. "Hotel Site" means the property designated as the "Hotel Site" in the Planned Unit Development Documents, as amended.

1.22 Improvements. "Improvements" means the following located or occurring on any Lot: Residences, buildings, structures, pools, trampolines, basketball backboards, outdoor play structures, gazebos, hot tubs, tree houses, fences, walls, hedges, plantings, landscaping, "yard art" (including, without limitation, all statues, decorative pieces and other pieces of art located in the yard area of any Lot which are intended to remain in place longer than typical holiday period decorations; holiday period decorations which are in place for less than six weeks are specifically excluded from this definition of Improvements), lighting, poles, driveways, parking areas, sidewalks, patios, decks, signs, changes in any exterior color or shape, excavation and site work, removal of trees or plantings, and any new exterior construction or exterior improvement on a Lot which may not be included in the foregoing. The term "Improvements" includes both original improvements and all later changes and improvements on a Lot.

1.23 Lot or Lots. "Lot" or "Lots" means a physical portion of the Property which is designated for separate ownership or occupancy, and the boundaries and identifying number of which are described in or determined from a declaration and a plat. A Lot or Lots may be for residential or commercial use. As used herein, the definition of a Lot shall include a condominium unit, fractional unit interest or other portion of property designated for separate ownership.

1.24 Metropolitan District. "Metropolitan District" means Stone Ridge Metropolitan District No. 1, its governing board and/or any other association or governmental entity, to whom the Metropolitan District may, from time to time, transfer or assign any or all of the rights and duties of the Metropolitan District under this Declaration, including without limitation the Design Review Committee and the Covenant Enforcement Committee. Each such assignment or transfer, if any, shall be effective upon recording in Las Animas County, Colorado, of a document of transfer or assignment, duly executed by the then Metropolitan District and may be revoked at the pleasure of the Board.

1.25 Metropolitan District Property. "Metropolitan District Property" means any real property within the Community now or hereafter owned or leased by the Metropolitan District, together with all landscaping improvements, trails, open space, irrigation systems, entry monuments and other Improvements now or hereafter located on such Metropolitan District Property.

1.26 Neighborhood. "Neighborhood" means any area of the Annexed Property having a similar type of housing, such as an area with detached single family homes, an area with attached homes (duplexes), or an area with multi-family housing, such as townhomes and/or condominiums. The area of Annexed Property within a specific Neighborhood may be identified as such in a Supplemental Declaration, or it may simply be an area of Annexed Property subject to the Declaration which is comprised of similar housing and which is designated as a Neighborhood by the Metropolitan District. A Neighborhood may contain more than one type of housing if so stated in the Declaration or a Supplemental Declaration for that Neighborhood or as approved by the Metropolitan District.

1.27 Neighborhood Associations. "Neighborhood Associations" means any Colorado corporation, nonprofit corporation or limited liability company, and its successors and assigns, organized and established or authorized pursuant to, or in connection with, one or more Supplemental Declarations and of which the membership is composed of Owners of Lots within all or part of the respective Neighborhood areas covered by the Supplemental Declarations.

1.28 Owner or Lot Owner. "Owner" or "Lot Owner" means the Declarant or other Person who owns a Lot but does not include a Person having an interest in a Lot solely as security for an obligation.

1.29 Person. "Person" means any natural person, corporation, partnership, limited liability company, governmental entity, association, trust, or any other entity or combination thereof.

1.30 Planned Unit Development Documents. "Planned Unit Development Documents" means the final Stone Ridge Subdivision document on file with the City, including, but not necessarily limited to, the Plat; construction drawings; Annexation and Development Agreement recorded May 4, 2001, at Reception No. 200100651826 in

Book 1004, Page 623, Las Animas County, Colorado, records; City Ordinance No. 1669 (1663) recorded May 30, 2001, at Reception No. 200100652276 in Book 1004, Page 1902, Las Animas County, Colorado, records, approving the annexation of the Stone Ridge Project; City Ordinance No. 1664 dated April 17, 2001, approving the Planned Urban Development zoning of the Stone Ridge Project; and Stone Ridge Subdivision Map recorded December 22, 2004, at Reception No. 200400677352 in Book 1044, Page 1140, Las Animas County, Colorado, records; and any supplements and annexations and final plats and subdivision plats regarding Annexed Property and Annexable Property.

1.31 Plat. "Plat" or "Plats" mean collectively the plats of the Property which is part of the Community recorded with the Clerk and Recorder of Las Animas County, Colorado, and all recorded amendments, corrections and replats together with any subsequently recorded plats of the Annexed Property or other real estate which becomes part of the Community.

1.32 Project. "Project" means the Annexed Property and, at any time, portions of the Annexable Property that have been made subject to this Declaration from time to time and thereafter deemed Annexed Property.

1.33 Property. "Property" means the Annexed Property or any portion thereof.

1.34 Purchaser. "Purchaser" means a Person, other than the Declarant and other than a Person who is purchasing the Lot solely to construct a Residence or other Improvements (commercial or residential) for resale (and not for occupancy by such Person), who, by means of a transfer, acquires a legal or equitable interest in a Lot, other than

(a) A leasehold interest in a Lot of less than forty (40) years, including renewal options, with the period of the leasehold interest, including renewal options, being measured from the date the initial term commences; or

(b) A party holding a security interest on any portion of the Annexed Property.

1.35 Recreation Area Committee. "Recreation Area Committee" shall have the meaning given at Section 17.10 of this Declaration.

1.36 Recreation Area(s). "Recreation Area(s)" means those portions of the Community owned by the Recreation Owner, or its successors, specifically designated for recreational purposes or the construction of Recreational Facilities and any Recreational Facilities (including the pool area with related recreational and other facilities) to be constructed on the Recreation Property by Recreation Owner for which it reserves the right to limit access to Owners who pay the access charges, or to otherwise condition or restrict usage, all on such terms and conditions as the Metropolitan District or such other designated party may determine.

1.37 Recreation Facility or Recreation Facilities. "Recreation Facility" or "Recreation Facilities" means the facilities which are now or may hereafter be constructed within Recreation Areas and owned by Recreation Owner and its successors, for the use of all Owners and their families, guests and tenants for which all Owners will be assessed certain charges by the Metropolitan District as described in Article 17.

1.38 Recreation Members. "Recreation Members" shall have the meaning given at Section 17.3 of this Declaration.

1.39 Recreation Owner. "Recreation Owner" shall mean the owner of the Recreation Facility(ies) or Recreation Area(s).

1.40 Recreation Property. "Recreation Property" means those portions of the Community specifically designated for recreational purposes or the construction of Recreational Facilities.

1.41 Recreational Assessment. "Recreational Assessment" shall have the meaning given at Section 17.7 of this Declaration.

1.42 Records. "Records" means the official real property records of Las Animas County, Colorado; "to Record" means to file for recording in the Records; and "of Record" and "Recorded" means having been recorded in the Records; and "Recording" means the act of recording a document or instrument in the Records.

1.43 Residence. "Residence" means a single-family residential dwelling constructed within the Community, specifically including, but not limited to, a detached home, an attached home, a condominium unit, or a fractional ownership unit.

1.44 Residential Lot. "Residential Lot" means any Lot within the Project designated for Residential Use and/or the construction of a Residence and not specifically identified as a Commercial Lot or as a Recreation Area.

1.45 Residential Use. "Residential Use" means use for dwelling purposes but does not include Lots primarily used for commercial income from, or service to, the public.

1.46 Residing Family Member(s). "Residing Family Member(s)" shall have the meaning given at Section 17.8 of this Declaration.

1.47 Restrictions. "Restrictions" means (i) this Declaration as amended from time to time, and (ii) the "Rules and Regulations" from time to time in effect.

1.48 Rules and Regulations. "Rules and Regulations" means any instruments, however denominated, which are adopted by the Metropolitan District for the regulation and management of the Community, including any amendment to those instruments. The term "Rules and Regulations" specifically includes the Metropolitan District's Design Guidelines.

1.49 Special Declarant Rights. "Special Declarant Rights" means rights which Declarant has the right to exercise as enumerated in this Declaration.

1.50 Supplemental Declaration. "Supplemental Declaration" means a written instrument containing covenants, conditions, restrictions, reservations, easements or equitable servitudes, or any combination thereof, which may be recorded against any portion of the Annexable Property in accordance with Article 12 of this Declaration.

1.51 System Development Fee. "System Development Fee" shall have the meaning given at Section 17.6 of this Declaration.

1.52 Tract or Tracts. "Tract" or "Tracts" means a physical portion of the Annexed Property identified as a "Tract" or "Phase" on the Plat.

## 2. DEVELOPMENT OF THE PROPERTY/ANNEXATION.

2.1 Subdivision and Development by Declarant. Declarant has designated or intends to designate all or a portion of the Annexed Property into Lots for single-family residential development, multi-family residential development and commercial development. The Declarant intends that it or successor Declarants shall designate areas of the Community as Residential Lots, Commercial Lots, and as Recreation Areas, or for other purposes for the benefit of the Community. The Declarant contemplates that the Annexed Property and Annexable Property will be developed by third parties as a unified planned development pursuant to the Plat as the Plat may be amended or expanded from time to time. The intended development of, and restrictions upon, each portion of the Annexed Property and Annexable Property is intended to benefit each other portion and the whole of the Community.

2.2 Conveyance and Acceptance of Metropolitan District Property. Declarant expressly reserves the right in the course of planning the Community to convey to the Metropolitan District certain areas such as open space, parks, sidewalks, roads and drainage ways and/or other property or facilities which are deemed by Declarant to be most suitable for maintenance and administration by the Metropolitan District, sometimes hereinafter referred to as "Metropolitan District Property." The Declarant contemplates that maintenance of certain open space, parks, sidewalks and private roads may be assumed by the Metropolitan District or other governmental entity or a Neighborhood Association. Conveyance of real property from the Declarant, Builder or other Owner to the Metropolitan District shall be made by a separate conveyance deed whereby the Metropolitan District shall accept such real property and all duties and responsibilities provided and assumed by the Metropolitan District in this Declaration. At this time, the Metropolitan District is not expected to have an adequate tax base to pay for and support Recreational Facilities, and the Metropolitan District may seek non-tax alternatives to encourage Persons or the Recreation Owner to construct and operate the Recreational Facilities.

2.3 Merger. The properties, rights and obligations of the Metropolitan District may, by operation of law, be transferred to another surviving governmental entity or consolidated association similar in nature and purposes. The surviving governmental entity or consolidated association may administer the covenants and restrictions established upon any other basis as one scheme. No such merger or consolidation, however, shall effect any revocation, change, or addition to the covenants established by this Declaration within the Project except as hereinafter provided.

2.4 Manner and Effect of Annexation. Portions of the Annexable Property may, from time to time, become part of and made subject to this Declaration, and thereby constitute for the purposes of this Declaration, effective upon

the Recordation of a Supplemental Declaration for such portion of the Annexable Property in the office of the Clerk and Recorder of Las Animas County, Colorado, Annexed Property. Upon Recordation of a Supplemental Declaration for any portion of the Annexable Property as aforesaid, such portion shall thereupon, automatically and without any further action by any other party, constitute Annexed Property, and such Annexed Property, and each part thereof, shall, from and after the date of such Recordation, be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the Restrictions and other provisions set forth in this Declaration. Conversely, unless and until a Supplemental Declaration for a portion of the Annexable Property is Recorded, such portion of the Annexable Property shall not be subject to this Declaration, none of the Restrictions in this Declaration shall be construed to affect, encumber, apply to or constitute a cloud upon title to such portion of the Annexable Property. Consequently, it is the express intention of Declarant in executing this Declaration that the Restrictions and other provisions set forth in this Declaration which apply to Annexed Property shall apply to the Annexable Property, or portion thereof, only from and after the date the Annexable Property, or portion thereof, becomes Annexed Property in accordance with the foregoing provisions.

2.5 No Annexation Required; Contraction of Annexable Property. Notwithstanding any other provision of this Declaration to the contrary, nothing in this Declaration shall be construed to obligate the Annexable Property, or any portion thereof, to be made subject to this Declaration. Declarant (acting on its own behalf or by delegating to successor Declarants the right to annex Annexable Property into the Community) expressly reserves the right, in its sole discretion, to make or cause the Annexable Property, or any portion thereof, to be subject to this Declaration or to determine to not make the Annexed Property, or any portion thereof, subject to this Declaration. Additionally, the Annexed Property may, in the sole discretion of Trinidad Operations, Inc., from time to time be contracted by removal or withdrawal of any portion of the Annexed Property effective upon the Recordation of a written instrument, executed by Trinidad Operations, Inc., referring to this Declaration, describing such portion and declaring that such portion shall thereafter be withdrawn from the Annexed Property under this Declaration. The recording of any such written instrument and the withdrawal of any portion of the Annexed Property shall not require the consent or ratification of any Lot Owner other than the original Declarant, Trinidad Operations, Inc., or its successor to this explicit right, but shall require the written consent of the Owner(s) of the portion of the Annexed Property being withdrawn if, at the time such portion of the Annexed Property then being withdrawn from the Annexed Property is not then owned by the Declarant. No subsequent declarant shall have the power to withdraw any portion of the Annexed Property from the Community.

3. COMMUNITY.

3.1 Name. The name of this Community is Cougar Canyon.

3.2 Community. The Community may include single family detached Residences, attached duplex Residences, multi-family housing, such as townhomes and/or condominiums, fractional ownership residences, Recreation Areas, commercial buildings and mixed use buildings.

3.3 County. The name of every county in which any part of the Community is situated is Las Animas County, Colorado.

3.4 Legal Description. The legal description of the Annexed Property that has been subjected to this Declaration and included in the Community is set forth in attached Exhibit A. As of the recording of this Declaration, no portion of the Annexable Property has been made subject to this Declaration.

3.5 Boundaries of Lots. The boundaries and the identifying number of each existing Lot are or will be set forth on the Plat, as amended, expanded or supplemented.

4. METROPOLITAN DISTRICT.

4.1 Powers and Authority. The Metropolitan District shall have and may exercise with regard to the Community all powers and authority necessary to administer its duties under this Declaration (specifically including without limitation: (i) the power to adopt and amend budgets for revenues, expenditures, and reserves and collect taxes and fees for expenses from the Owners of Lots within the Community to administer its duties and obligations provided in this Declaration; (ii) the power to manage and enforce the Restrictions provided herein; (iii) the power to contract with a third-party property manager for the management of the Community and/or for all other duties and responsibilities related to the overall operation of the Community; and (iv) all other rights, powers and authority necessary to enforce this Declaration for the benefit of the Community). The Metropolitan District may adopt Rules and Regulations. Additionally, the Metropolitan District, acting through its governing board, shall have the power to levy reasonable Penalties for violations of any provision of this Declaration and Rules and Regulations. The remedies for collection of any such Penalties shall be as provided in Articles 6 and 7 below. The Metropolitan District also has additional powers

and authority as a metropolitan district under Colorado law, and nothing contained in this Declaration shall be interpreted or construed as a limitation, restriction or abrogation in whole or in part of such the powers.

4.2 Cooperation with the Metropolitan District. The Metropolitan District shall have the right and authority at any time, from time to time, to enter into agreements and otherwise cooperate with any Neighborhood Association, any other community associations, and/or any other districts.

## 5. MAINTENANCE.

5.1 Lot and Public Right-of-Way Area. Subject to the provisions of any Supplemental Declaration which may create different maintenance responsibilities for a certain Neighborhood, and subject to the Section 5.2 provisions below regarding Metropolitan District services, each Owner shall maintain, keep in good repair and replace as necessary all improvements on the Owner's Lot. Such maintenance and repair shall be performed in a manner considered acceptable to the Metropolitan District and/or the Design Review Committee, and in a manner which complies with this Declaration and the Metropolitan District's Rules and Regulations.

5.2 Metropolitan District's Right to Perform Work. In the event any Lot Owner shall fail to satisfactorily perform any maintenance, repair or replacement obligations of such Lot Owner (including, without limitation, the initial installation of landscaping on the Owner's Lot), the Metropolitan District may give written notice to the Lot Owner of the work required to be performed, and, if such failure to perform the work continues for a period of thirty (30) days after such notice has been given, the Metropolitan District may enter upon the Lot and perform the necessary maintenance, repairs or replacements. The cost of any such maintenance, repair or replacement shall be assessed against the Lot in question as a Fee of the District.

5.3 Metropolitan District's Easement to Perform Work. The Metropolitan District shall have an easement over, across and upon each Lot and Tract permitting the Metropolitan District, its agents, employees and independent contractors to enter upon the Lot as reasonably necessary and with reasonable notice in order to perform the work to be performed on the Lot by the Metropolitan District pursuant to the Declaration. All persons performing such work shall use their best efforts to minimize interference with the Lot Owners' use and enjoyment of the Lot when performing such work.

5.4 Perimeter Fencing. The Metropolitan District and/or Builders may install perimeter fencing along exterior portions of the Project. Perimeter fencing will be constructed such that portions of said fencing will be constructed pursuant to requirements of the City, in accordance with the Planned Unit Development Documents and the Guidelines, as defined below. Some portions of such fencing may be constructed on Lot lines, and other portions may be constructed adjacent to said Lots. To the extent any Lot along the perimeter of the Project has perimeter fencing constructed adjacent to said Lot, the real property located within the fenced-in area on the Lot side of such fence shall continue to be owned by the Metropolitan District, but Owners of Lots shall be responsible for landscaping and maintaining such real property to the extent such Owner is also responsible for landscaping and maintaining his or her Lot. In addition, Owners of Lots with perimeter fencing (either on the Lot line or appurtenant to said Lot) shall be responsible for maintaining the portion of said fence that faces the Owner's Lot or Residence, to the extent such Owner is also responsible for landscaping and maintaining his or her Lot.

5.5 Damage by Owner. Notwithstanding anything to the contrary contained in this Declaration, in the event of the need for the Metropolitan District to maintain, repair or replace any portion of the Metropolitan District Property is caused by the willful act, negligence or other misconduct of an Owner, or a member of such Owner's family or a guest, invitee or tenant of an Owner, or a member of such tenant's family, the cost of such repair, replacement or maintenance shall be the personal obligation of such Owner, and the costs, expenses and fees incurred by the Metropolitan District for the same shall be levied to such Owner as part of such Owner's taxes and fees to be collected by the Metropolitan District. The Metropolitan District shall have a lien against such Owner's Lot to secure such taxes and fees.

## 6. DESIGN REVIEW.

6.1 Committee and Design Guidelines. The Metropolitan District shall establish a Design Review Committee ("DRC") which members shall be appointed by the governing board of the Metropolitan District. The DRC shall be responsible for the ministerial administration and application of the Design Guidelines (the "Design Guidelines" or "Guidelines") established by the Metropolitan District to facilitate the purposes and intent of this Declaration. Separate and distinct design criteria or Guidelines may apply to specific Neighborhoods within the Community. Other Guidelines may apply to the Community as a whole. All such Guidelines shall be prepared and adopted and amended by the Metropolitan District and administered by the DRC and the Metropolitan District, as necessary. The Metropolitan District may promulgate, amend, vary, repeal and augment the Guidelines from time to time, in its sole discretion (with

the input of the DRC and the Master Association to the DRC) based on concerns for good planning and design, the aesthetic, architectural and environmental harmony of the Community and the Neighborhoods, or other factors considered necessary or desirable to fulfill the intent of this Declaration and the Guidelines. The Guidelines shall be binding on all property governed by this Declaration. In the event of any conflict between the Guidelines and this Declaration, the Declaration shall control. The Guidelines may include, among other things, those restrictions and limitations set forth below:

- (a) Standards establishing an architectural theme and requirements pertaining to building style and design, construction materials and site planning.
- (b) Procedures for making application to the DRC for approval, including the documents to be submitted and the time limits in which the DRC must act to approve or disapprove any submission.
- (c) Time limitations for the completion, within specified periods after approval, of the Improvements for which approval is required under the Guidelines.
- (d) Designation of building setbacks.
- (e) Minimum and maximum square foot areas of living space that may be developed on any Lot.
- (f) Limitations on the height of any Residence or other Improvement.
- (g) Specifications for the location, dimensions and appearance or screening of any fences, accessory structures, antennae or other such Improvements.
- (h) Landscaping regulations.
- (i) General instructions for the construction, reconstruction, refinishing or alteration of any Improvement.
- (j) Rules for construction activities, as well as maintaining construction sites and adjacent areas.

## 6.2 Landscaping Responsibilities

(a) To the extent landscaping has not been installed by Declarant, the Lot Owner (other than Declarant and Builder) of each Lot shall, within the time frames as hereinafter provided, install landscaping on all of the Lot which is not covered by a building or building Improvement. As more fully provided in the Guidelines, the owner of each Lot (other than Declarant and Builder) shall install landscaping on such Lot within ninety (90) days after the first to occur of (i) the issuance of a certificate of occupancy for a Residence constructed on such Lot ("Issuance"), or (ii) closing of acquisition of such Lot which has been improved by the construction of a Residence ("Closing") by such Owner if such Issuance or Closing occurs between March 31 and November 1 of any year and ninety (90) days after the April 1 immediately following Issuance or Closing if such Issuance or Closing occurs between November 1 and March 31 of any year (e.g., if Closing occurs on March 31, the ninety (90) day period shall commence running the following day, which is April 1); provided, however, such time frames are subject to the requirements of the City of Trinidad, Colorado. If any Owner fails to install landscaping within such ninety (90) day period, the Metropolitan District shall impose a Fine on such Owner in the amount of Fifty and No/100 Dollars (\$50.00) (which shall be increased annually by an amount equal to the U.S. government's established Consumer Price Index) per day until the earlier of completion of the landscaping or thirty (30) days after the end of the initial ninety (90) day period. If such Owner fails to complete the landscaping within such additional thirty (30) day period, the Metropolitan District shall enter upon such Lot and install landscaping, the cost of which shall be the personal obligation of the Owner(s) of the Lot on which such work is performed to the Metropolitan District, including, without limitation, interest, late charges and lien rights. Landscaping of a Lot must be completed within thirty (30) days after an Owner commences such landscaping.

(b) Landscaping plans and other required documents shall be professionally done, shall be in accordance with the Guidelines and the landscape standards adopted by the City of Trinidad, if any, and shall be submitted to the DRC for review, and the approval of the same shall be obtained prior to the installation of landscaping, except where installed by the Declarant. Each owner shall maintain all landscaping on such Owner's Lot in a neat and attractive condition, including periodic and horticulturally correct pruning, removal of weeds, and replacement of landscaping. If any Owner fails to comply with this subsection (b), the Metropolitan District may, at its discretion, enter upon such Lot and install and/or maintain landscaping and assess a Fee against the Lot to recover the costs of doing so.

6.3 **DRC Membership and Organization.** The DRC shall be composed of not less than one (1) nor more than eleven (11) persons. The DRC may include one or more design professionals, provided that if the DRC consists of only one person, that person shall be a licensed architect or landscape architect or land planner. All members of the DRC shall be appointed, removed and replaced by the Metropolitan District, in its sole discretion.

6.4 **Purpose and General Authority.** The DRC shall review, study and either approve or reject proposed improvements, including landscaping, on the Annexed Property, all in compliance with this Declaration and, as further set forth in the Guidelines and such Rules and Regulations as the Metropolitan District, as it may establish from time to time to govern its proceedings. If any Owner is applying for a variance to the Restrictions or the Guidelines, such application must be submitted to the Metropolitan District, not the DRC, for review and consideration. No Improvement shall be erected, placed, reconstructed, replaced, repaired or otherwise altered, nor shall any construction, repair or reconstruction be commenced until plans for the Improvements shall have been approved by the DRC; provided, however, that Improvements that are completely within a building and do not involve exterior appearance may be undertaken without such approval. All Improvements shall be constructed only in accordance with plans approved by the Metropolitan District or the DRC acting within its ministerial delegation of authority..

6.5 **DRC Approval.** The DRC, by majority vote, shall approve plans and specifications submitted to it only if it determines that the construction, alteration, and additions contemplated thereby, and in the location as indicated, will comply with this Declaration, the Guidelines, its limited ministerial authority, and the Planned Unit Development Documents. Any proposed plans not within the ministerial authority of the DRC must be approved by the Metropolitan District to comply with this Declaration, the Guidelines and the Planned Unit Development Documents. The DRC will serve to preserve and enhance the values of the Lots within the Community and will maintain a harmonious relationship among structures, vegetation, topography, and the overall design of the Community. All plans and specifications submitted to the DRC shall be drawn to scale and include such detail necessary for the DRC to make an informed review of such plans and specifications. The DRC may reject any plans and specifications it deems to be insufficient, in its sole and absolute discretion. The DRC shall consider the quality of workmanship, type of materials, and harmony of exterior design with other Residences located in the Community. Furthermore, unless otherwise allowed in writing by the DRC, an Owner shall not apply for a City building permit for any Improvements until DRC approval for such Improvements has been obtained. Approval by the DRC shall be in writing or indicated by endorsement on the plans and specifications submitted for approval. No building, other structure or landscaping shall be erected or allowed to remain on any Lot which violates this Declaration. The issuance of a building permit by the City or other governmental authority having jurisdiction over the Community, shall not prevent or prohibit the DRC or a Lot Owner from enforcing the terms and provisions of this Declaration. The approval by the Metropolitan District or the DRC of any plans and specifications shall not be deemed a waiver of any right to withhold approval of any similar plans and specifications, or other matters subsequently or additionally submitted for approval by the same Owner or by another Owner. Furthermore, any approval granted shall not be considered a permit to build under applicable governmental regulations. Compliance with the Community design review process is not a substitute for compliance with the City and other governmental building, zoning and subdivision regulations, and each Owner is responsible for obtaining all approvals, licenses, and permits as may be required prior to commencing construction of Improvements. Furthermore, approval does not approve or guarantee engineering design or compliance with applicable laws and governmental ordinances or regulations (such as zoning, building, health and fire ordinances and codes), and does not reflect any representation as to such matters. The Owner is solely responsible for all such compliance. By approving plans and specifications, neither the DRC, members, the Metropolitan District nor the Declarant assumes any liability or responsibility for engineering design or compliance with applicable laws and governmental ordinances or regulations.

6.6 **Notice of Completion.** Upon completion of any Improvement, the applicant for approval shall submit a written "Notice of Completion" to the Metropolitan District and/or the DRC requesting final approval. The Owner or the Builder shall not seek a certificate of occupancy from the City of Trinidad or any governmental agency until receipt of written final approval from the Metropolitan District and/or the DRC.

6.7 **Inspection of the Work.** The Metropolitan District and/or the DRC shall have the right to inspect any Lot or Improvement prior to completion in order to determine whether or not the proposed Improvement is being completed or has been completed in compliance with the approval granted pursuant to this Article 6; provided, however, that the right of inspection shall terminate ninety (90) days after the Metropolitan District's and/or the DRC's receipt of the applicant's written Notice of Completion and request for final approval as provided in Section 6.6.

6.8 **Notice of Noncompliance.** If, as a result of the Metropolitan District's and/or the DRC's inspection of the Improvement, the Metropolitan District and/or the DRC determines that the Improvement has been performed without obtaining the Metropolitan District's and/or the DRC's approval, or was not performed in substantial compliance with the approval that was granted, the Metropolitan District and/or the DRC shall notify the applicant in writing of the noncompliance within thirty (30) days of inspection. The notice of noncompliance shall specify the details of the noncompliance. The Owner or Builder shall immediately correct any such noncompliance.

6.9 Discretion and Variances. The Metropolitan District and/or the DRC shall exercise their reasonable judgment to see that all Improvements conform and harmonize with any existing structures as to external design, quality and type of construction, materials, color, location on the Lot, height, grade and finished ground elevation, and the schemes and aesthetic considerations set forth in the Guidelines and this Declaration. The Metropolitan District, in its sole discretion, based on concerns for good planning and design, the aesthetic, architectural and environmental interests of the Community, or other factors as necessary or desirable to fulfill the intent of the Guidelines and this Declaration, may grant variances from compliance with this Declaration and the Guidelines. Such variances must be in writing and shall become effective when signed by at least a majority of the governing board of the Metropolitan District. If any such variance granted, no violation of the provisions of this Declaration or the Guidelines shall be deemed to have occurred with respect to the matter for which the variance is granted. However, the granting of a variance shall not operate to waive any provisions of this Declaration or the Guidelines for any purpose except as to the particular Lot and the particular written variance to the Declaration or Guidelines stated in the variance, nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations.

6.10 Changes to Approved Plans. Any and all changes or alterations whatsoever to plans previously approved by the Metropolitan District and/or the DRC must be reviewed and approved by the Metropolitan District and/or the DRC.

6.11 Driveway Expansions. No expansions of driveways for additional parking on a Lot shall be allowed without approval by the Metropolitan District or its Design Review Committee.

6.12 Binding Effect. The actions of the Metropolitan District and/or the DRC in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties.

6.13 Expenses and Fees. Except as provided in the next sentence, all expenses of the DRC shall be paid by the Metropolitan District. The DRC shall have the right to charge fees and deposits for each application submitted to it for review, in a reasonable amount to be established by the DRC from time to time. Such fees shall be determined and collected by the DRC and remitted to the Metropolitan District to defray the expenses of the DRC's operations. The Metropolitan District or any private management company hired by the Metropolitan District to assist in administration of its duties shall provide the DRC with staff for the recording of committee meeting minutes and assistance with other administrative needs, at the Metropolitan District's cost and expense as it deems reasonably necessary.

6.14 Limitation of Liability. Neither the Metropolitan District, the DRC nor any individual Metropolitan District board member or individual member shall be liable to any person for any official act of the DRC in connection with submitted plans and specifications, except to the extent the Metropolitan District, DRC or any individual DRC member acted willfully or in bad faith to the detriment of the Community and his obligations to these organizations. The DRC, its members and the Metropolitan District and its board members shall not be responsible or liable to any Owner, developer or contractor with respect to any loss, liability, claim or expense which may arise by reason of plan approval or disapproval, or the construction of Improvements whether or not pursuant to any approved plans. Neither the Metropolitan District, the DRC, nor any agent thereof, nor Declarant, nor any of its successors or their managers, members, employees, agents or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved, nor for any structural or other defects in any work done according to such plans and specifications. In all events the DRC, its members, and Metropolitan District board members shall be defended and indemnified by the Metropolitan District in any such suit or proceeding which may arise by reason of the Metropolitan District's or DRC's decisions. The Metropolitan District, however, shall not be obligated to indemnify such members to the extent any such member is adjudged to be liable for bad faith or willful misconduct in the performance of his or her duty as a member, unless and then only to the extent that the court or arbitration panel in which such action or suit may be brought determines upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expense as such court shall deem proper.

6.15 Enforcement.

(a) Inspection. Any member or authorized consultant of the DRC, or any authorized officer, director, employee or agent of the Metropolitan District may enter upon any Lot at any reasonable time after notice to the Owner, without being deemed guilty of trespass, in order to inspect Improvements constructed or under construction on the Lot, and to determine whether the Improvements have been or are being built in compliance with the Guidelines, the Declaration and the plans and specifications approved by the Metropolitan District and/or the DRC.

(b) Construction and Certificate of Compliance. All Improvements constructed upon a Lot shall be constructed in strict accordance with the plans and specifications approved by the Metropolitan District and/or the DRC. Upon written request of any Owner or his agent, or a prospective grantee, and upon payment of a reasonable fee established from time to time by the Metropolitan District and/or the DRC, the Metropolitan District and/or the DRC shall issue a certificate setting forth generally whether, to the best of the Metropolitan District's and/or the DRC's knowledge, the Improvements on a particular Lot are in compliance with the terms and conditions of the Guidelines and this Declaration.

(c) Deemed Nuisances. Every violation of this Declaration and the Guidelines is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed for such violation by law or equity against the violating Owner shall be applicable. Without limiting the generality of the foregoing, these remedies include the following:

(i) Penalties for Violations. The Metropolitan District may levy reasonable Penalties for such violations.

(ii) Removal of Nonconforming Improvements. The Metropolitan District, upon request of the DRC, shall have the right to obtain a court order from a Colorado court of competent jurisdiction to remove any Improvement constructed, reconstructed, refinished, altered or maintained upon a Lot in violation of this Declaration or the Guidelines.

(iii) Correction of Noncompliance. If the Metropolitan District and/or the DRC provide notice to the applicant of noncompliance, the Person responsible for the noncompliance shall remedy or remove (and return the property or structure to its original condition) the same on or before forty-five (45) days following delivery of the notice of noncompliance. If such Person fails to comply within such a remedy period, the Metropolitan District may, at its discretion, record a notice of noncompliance in the Records against the Lot on which the noncompliance exists, may remove the noncomplying Improvement or may otherwise remedy the noncompliance. The Metropolitan District shall have a lien against each such Lot to secure payment of any remedial work required to correct the noncompliance, plus interest and/or any late charges as provided in this section, plus all costs an expenses of collecting the unpaid amount, including reasonable attorneys' fees. The lien may be foreclosed in any manner for foreclosure of mortgages in the State of Colorado.

6.16 Access Easement. Each Lot is subject to an easement in favor of the Metropolitan District, including its agents and representatives, for performing any of the actions contemplated by this article, including without limitation Sections 6.7 and 6.15 hereof. All Persons entering any Lot or Improvements pursuant to this easement shall use their best efforts to minimize interference with the Lot Owners' use and enjoyment of the Lot, including such inspections or correction work.

## **7. COVENANT ENFORCEMENT.**

7.1 Committee. The Metropolitan District shall establish a Covenant Enforcement Committee (the "CEC"), whose members shall be appointed by the governing board of the Metropolitan District. The CEC shall be responsible for the ministerial administration and enforcement of the Restrictions imposed by this Declaration. The CEC shall have the right to: (i) accept complaints for violations of the Restrictions; (ii) submit complaints to the Metropolitan District regarding violations of the Restrictions; (iii) inspect the Community for violations of the Restrictions; (iv) issue various notices to Owners regarding the Restrictions; and (v) provide all ministerial administration and enforcement of the Restrictions as permitted by the Metropolitan District and this Declaration. Notwithstanding anything to the contrary herein, at all times a member of the Metropolitan District's governing board shall be appointed as the "Chairman" of the CEC.

7.2 CEC Membership and Organization. The CEC shall be composed of not less than three (3) nor more than five (5) Persons. All members of the CEC shall be appointed, removed and replaced by the Metropolitan District, in its sole discretion.

7.3 Purpose and General Authority. The CEC shall review all complaints and notifications provided by the Declarant, an Owner, or the Master Association regarding any alleged violation of the Restrictions contained in this Declaration. The CEC shall have the authority to determine whether a violation of a Restriction has occurred by any Owner, and upon such determination, may issue to an Owner a notice to correct the violation ("Notice to Correct").

7.4 Expenses. All expenses of the CEC shall be paid by the Metropolitan District. The Metropolitan District or the private management company hired by the Metropolitan District shall provide the CEC with staff for the

recording of committee meeting minutes and assistance with other administrative needs, at the Metropolitan District's cost and expense as it deems reasonably necessary.

7.5 Enforcement.

(a) Inspection. Any member or authorized consultant of the CEC, or any authorized officer, director, employee or agent of the Metropolitan District may enter upon any Lot or Improvement at any reasonable time after notice to the Owner, without being deemed guilty of trespass, in order to inspect the property alleged to be in violation of the Restrictions.

(b) Notice to Correct. If the CEC determines that the property is in violation of the Restrictions, the CEC shall issue a Notice to Correct to the Owner of the applicable Lot. The Notice to Correct shall contain a specific description of the violation of the Restrictions and a time period during which the Owner shall have to correct the violation.

(c) Deemed Nuisances. Every violation of this Declaration and the Restrictions is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed for such violation by law or equity against the violating Owner shall be applicable. Without limiting the generality of the foregoing, these remedies include the following:

(i) Penalties for Violations. The Metropolitan District may levy Penalties for such violations.

(ii) Removal of Violation. The Metropolitan District shall have the right to obtain a court order from a Colorado court of competent jurisdiction to remove or correct any violation of the Restrictions, which might include any Improvement to the Property or an injunction prohibiting a restricted use of the Property.

(iii) Correction of Noncompliance. If the CEC provides Notice to Correct, the Owner responsible for the noncompliance shall remedy and remove the violation on or before the time period stated in the Notice to Correct. If such Person fails to comply with such a remedy, the Metropolitan District may, at its discretion, record a notice of noncompliance in the Records against the Lot on which the violation exists, may remove a violating Improvement, or may otherwise remedy the violation. The Metropolitan District may assess a penalty against each such Lot to secure payment of any remedial work required to correct the violation, plus interests and/or any late charges as provided in this section, plus all costs and expenses of collecting the unpaid amount, including reasonable attorneys' fees.

(d) Access Easement. Each Lot is subject to an easement in favor of the CEC and the Metropolitan District, including their agents and representatives, for the performance of any actions contemplated by this article, including, without limitation, Section 7.5. All Persons entering any Lot or Improvements pursuant to this easement shall use their best efforts to minimize interference with the Lot Owners' use and enjoyment of the Lot, including such inspections or correction work.

8. USE RESTRICTIONS.

8.1 General Restriction. The Lots shall be used only for the purposes set forth in this Declaration, as permitted by the applicable laws, regulations and ordinances, and as set forth in this Declaration or other specific recorded covenants affecting all or any part of the Annexed Property. No Residence shall be occupied for living or sleeping purposes by more persons than it was designed to accommodate safely, but in no event shall the maximum number of occupants in a Residence exceed three (3) persons multiplied by the number of designated bedrooms in such Residence (according to the real estate records of the Las Animas County).

8.2 Residential Use of Lots. Subject to the provisions of Sections 8.3, 8.4 and 11.1(c) below, each Lot may be used only for Residential Use. No business or commercial building may be erected on any Lot, and no business or commercial enterprise or other non-residential use may be conducted on any part of a Lot, except as provided in Sections 8.3, 8.4 and 11.1(c) below.

8.3 Home Occupations. The conduct of a home occupation within a Residence on a Lot shall be considered accessory to the Residential Use and shall not be deemed a violation of this Declaration, provided that the following requirements are met:

- (a) Such home occupation shall be conducted only within the interior of the Residence and shall not occupy more than fifteen percent (15%) of the floor area within the Residence.
- (b) The home occupation shall be conducted only by residents of the Residence and no non-residents shall be employed in connection with the home occupation carried on in the Residence.
- (c) No retail sales shall be conducted upon a Lot.
- (d) Only those home occupations which require no visits from customers and no parking at or near the Residence in connection with such occupation shall be allowed.
- (e) There shall be no evidence of a home occupation visible from the outside of the Residence.
- (f) The conduct of such home occupation must be permitted under the zoning ordinances of the City and/or Las Animas County.
- (g) No commercial deliveries for such home occupation shall be allowed other than occasional mail service deliveries.

A child daycare facility within a Residence on a Lot does not comply with the above requirements but may nevertheless be allowed in limited circumstances if a variance for such use is considered advisable by the Metropolitan District (as determined in its sole discretion), and if such variance is granted in writing by the Metropolitan District.

8.4 Commercial Area and RV Park. Property described on the Plat, as amended, or otherwise zoned as a Commercial Area or Commercial Lot, specifically including, but not limited to, the Hotel Site, may be used for commercial purposes. Notwithstanding anything to the contrary herein, no noxious or offensive trades, services, activities or businesses shall be conducted on any Commercial Area, nor shall anything be done thereon which may be or become an annoyance or nuisance to other Owners or to other occupants of lands within the Project by reason of unsightliness, or excessive emissions of fumes, exhaust, odors, glare, vibration, gases, air, wind, radiation, dust, liquid waste, solid waste, heat, smoke, noise or otherwise. Each Owner and each occupant of a Commercial Lot shall keep such Lot and the Improvements thereon in a safe, clean, neat and wholesome condition, and shall comply in all respects with all applicable governmental requirements and the Declaration and the Rules and Regulations.

8.5 Nuisance and Waste. No noxious or offensive activity shall be permitted in or on any Lot or otherwise within the Community nor shall anything be done therein which may be or become an annoyance or nuisance to any Owner. No waste shall be committed on any Lot or any other part of the Community.

8.6 Restrictions on Lot Consolidation. No Builder or Owner may change the platting of any Lot within the Project by either consolidating one or more Lots with another Lot or any portion thereof to create a larger Lot. This section shall not apply to or restrict any Declarant or any portion of the Commercial Area. This restriction shall automatically terminate twenty-five (25) years following recording of this Declaration.

8.7 Restriction on Further Subdivision. No Lot upon which a Residence has been constructed shall be further subdivided or separated into smaller lots by any Owner, and no portion consisting of less than all of any such Lot, nor any easement or other interest herein, shall be conveyed or transferred by an Owner, provided that this shall not prohibit deeds of correction, deeds to resolve boundary line disputes, and similar corrective instruments.

8.8 Limitation on Square Footage. No Residence within the Project shall exceed the total square footage limitation established in the Design Guidelines for the Neighborhood or phase in which it is situated. This limitation shall apply to all Residences within the Project regardless of Lot size. This section shall not apply to or restrict any Improvements constructed by the Declarant or any Improvement within the Commercial Area.

8.9 Appearance. Each Lot shall be kept in a clean, safe, and attractive condition. In particular, porches, patios and balconies shall not be used for any purpose which creates an unsightly appearance, as determined by the Metropolitan District and/or the Design Review Committee.

8.10 Clotheslines. No fixed clotheslines are allowed on any Lot. No retractable clotheslines shall be allowed.

8.11 Unsightly Articles. No unsightly article shall be permitted to remain on any Lot or any other portion of the Community if it is visible from adjoining property or public or private thoroughfares. Without limiting the generality of the foregoing, service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing

or household fabrics shall be appropriately screened from view. No lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap or refuse or trash shall be kept stored or allowed to accumulate on any property except within an enclosed structure or appropriately screened from view.

8.12 Antennas/Satellite Dishes/Generators/Playground Structures. Except for any which may, at Declarant's option, be erected by Declarant, no exterior radio or television antenna, satellite dish, aerial or other reception/receiver device, nor any playground structure, shall be erected or maintained on the Community without the prior written approval of the Design Review Committee, except as may be expressly allowed pursuant to the Rules and Regulations as promulgated by the Board or as may be allowed under 47 C.F.R. 1.4000. The location of all such devices shall be subject to the prior written approval of the Design Review Committee. No wind-powered electrical generators shall be permitted.

8.13 Improvements and Alterations. There shall be no construction, excavation or alteration which in any way alters the exterior appearance of any Improvement, or removal of any Improvement, without the prior approval of the Metropolitan District and/or the Design Review Committee.

8.14 Violation of Restrictions. If any Owner or Builder or their respective family, guests, licensees, lessees, invitees, agents or employees violates the Restrictions, the Metropolitan District may invoke any one or more of the following remedies: (i) impose a fine upon such Builder or Owner for each violation; (ii) cause the violation to be cured and charge the cost thereof to such Builder or Owner; and (iii) obtain injunctive relief against the continuance of such violation. Before invoking any such remedy, the Metropolitan District shall give such Builder or Owner notice.

8.15 Fencing. The Metropolitan District or the Declarant (or a Builder, with Declarant's consent) may construct certain entryways, fences, fence pillars or walls on or within the Community, including the Metropolitan District Property. No Owner shall construct, modify, replace, paint or obstruct any such entryways, fence, fence pillars or walls without the prior written approval of the Metropolitan District and/or the Design Review Committee. Material for the containment of any pets permitted by these Restrictions may be added to perimeter fencing, subject to prior approval by the Metropolitan District and/or the Design Review Committee.

8.16 No Violation of Law. Nothing shall be done or kept in or on any portion of the Community which would be in violation of any statute, rule, ordinance, regulations, permit, or validly imposed requirement of any governmental body.

8.17 Restrictions on Signs. Except as expressly permitted by law, no signs or flags shall be displayed to the public view on any Lot without the prior written approval of the Metropolitan District and/or the Design Review Committee, with the following exceptions: (i) Declarant may erect and maintain a sign or signs in connection with the construction, development, operation, promotion and sale of the Lots and/or living units; (ii) the patriotic display of flags not exceeding 4' x 6' in size shall be permitted on customary holidays; and (iii) signs of customary dimensions, not exceeding 3' x 4' in size, advertising the property or portions thereof for sale. Notwithstanding anything herein contained to the contrary, any and all signs, if allowed, shall comply with all sign standards of the applicable governmental authorities which may be applicable to the Community, as well as the Rules and Regulations.

8.18 Conditions for Design Control. No improvements, alterations, repairs, change of paint colors, excavations, changes in grade or other work which in any way alters the exterior of any Lot or Improvements located thereon from its natural or improved state existing on the date such property was first subject to this Declaration shall be made or done without compliance with the procedures set forth in Article 6 of this Declaration regarding the Metropolitan District and/or the Design Review Committee.

8.19 Trampolines/Basketball Goals/Hoops. No trampolines or trampoline fences, basketball goals, hoops, backboards, nets or similar sport or playground equipment shall be installed without the prior written approval of the Metropolitan District and/or the Design Review Committee.

8.20 Exemption for Declarant. Notwithstanding anything in this Declaration to the contrary, neither Declarant nor any of Declarant's activities shall in any way be subject to the control of, or under the jurisdiction of, the Metropolitan District or the Design Review Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to: (i) excavate and grade; (ii) construct and alter drainage patterns and facilities; (iii) construct any and all types of improvements; (iv) locate, relocate and maintain model homes and construction, sales and leasing offices and similar facilities in locations well suited for such uses as determined by the Declarant from time to time; and (v) post signs incidental to construction, sales and leasing, on the Metropolitan District Property and/or Lots owned by Declarant. Notwithstanding anything to the contrary contained in the foregoing, no such activities shall be carried on in such a way as to create a health hazard or unreasonably interfere with the use and enjoyment by any Owner or the Owner's family of the Owner's Lot. When the Declarant ceases to be

an Owner, the Declarant will cease to have any rights with regard to any real estate used as a sales office, management office, or model home.

8.21 Exemption for Builders. Declarant may exempt Builders from such restrictions of this Declaration for activities which Declarant deems to be incidental and necessary to the Builder's development activities, in Declarant's sole and absolute discretion. Such exemption shall not exempt any Builder or Owner from the terms, conditions, or restrictions of the Declaration or the Design Guidelines.

8.22 Assignment by Declarant/Transfer of Rights. Notwithstanding any other provision of this Declaration to the contrary, Declarant may delegate, transfer or assign in whole or in part any of its privileges, exemptions, development rights and duties under this Declaration to any other party and may permit the participation in whole or in part by any other party in any of its privileges, exemptions rights and duties hereunder. Without in any way limiting the generality of the preceding sentence, Declarant may in its sole discretion exempt from the control and jurisdiction of the Metropolitan District or the Design Review Committee any Builder, or any assignee and successor in interest of all or substantially all of Declarant's interests, rights, and responsibilities in and to the Property. If the transferor Declarant is a Person other than Trinidad Operations, Inc., no such rights can be transferred without the consent of Trinidad Operations, Inc.

8.23 Covenants Run with Land. All covenants, conditions, and restrictions contained herein are intended to and shall run with the land, and Declarant hereby agrees, for itself and its successors and assigns, that such covenants, individually and collectively, touch and concern the land and shall be binding, fully and in all respects, upon Declarant's successors in title to the land, regardless of how succession of title may be accomplished.

8.24 Storage and Parking. Except as otherwise permitted by law, boats, jet skis, other watercraft, trailers, campers, trucks (other than pickup trucks), motor homes, recreational vehicles, snowmobiles, all terrain vehicles, and inoperable vehicles of any type shall not be stored or parked on any Residential Lot or the streets adjacent to any Residential Lot for more than twenty-four (24) hours in any calendar week except within a fully enclosed garage. Moving any of the described items a short distance within the Community during the twenty-four (24) hour period shall be considered an attempt to circumvent this restriction, and the item moved shall still be considered in violation of this restriction. For purposes of this provision, any disassembled or partially disassembled car, truck, motorcycle, or other vehicle or any car, truck, motorcycle, or other vehicle which has not been moved under its own power for more than seven days shall be considered an inoperable vehicle subject to this provision, and the forty-eight (48) hour period referenced above shall commence at the end of the seventh day. No vehicle with advertisement or writing of any type visible on the exterior of such vehicle may be stored or parked (except temporary parking not to exceed two (2) hours) on a Residential Lot or the streets adjacent to a Residential Lot, except in an enclosed garage. No vehicle intended for commercial use or purposes may be stored or parked on a Residential Lot or the streets adjacent to a Residential Lot, except in an enclosed garage. The above excludes pick-ups, camper trucks, vans, and similar vehicles up to one (1) ton when consistently used for everyday transportation by the Owner of a Residential Lot or the Owner's tenant, and this restriction shall not prevent commercial vehicles being parked on a Residential Lot which are necessary for the construction of a Residence or other Improvement on the Lot.

8.25 Repair Work. No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicles, trailers, or boats, may be performed on any Lot unless it is done within a fully enclosed garage or other building which screens the sight and sound of the activity from the street and from adjoining Lots; nor shall any such activity be performed upon a street adjacent to a Lot. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, or motorcycle together with those activities normally incident and necessary to such washing and polishing, subject to the time limitations set forth in Section 8.24 above.

8.26 Pets. No animals, including, but not limited to, livestock, poultry, or reptiles shall be raised, bred, or kept on any Residential Lot except as hereinafter provided. A reasonable number of cats, dogs or other common household pets to be determined by the Metropolitan District may be kept on a Residential Lot or Commercial Lot, provided that (i) they are not kept, bred, or maintained for any commercial purposes; (ii) in the Metropolitan District's opinion, they do not make objectionable noises or otherwise constitute an unreasonable nuisance to other Owners; (iii) they are kept within an enclosed yard occupied by the owner of such pets or on a leash being held by a person capable of controlling the animal; (iv) the Owner of the property promptly disposes of all pet waste in a sanitary manner beyond the Community boundaries; and (v) they are not in violation of any other provision of this Declaration or governmental laws and ordinances. A "reasonable number" as used in this section shall mean not more than two dogs and two cats (for a total of four pets) per Residential Lot, provided, however, that the Metropolitan District may, from time to time, determine that a reasonable number in any instance may be less than the above number. The Metropolitan District shall have the right to prohibit any animal which, in the sole opinion of the Metropolitan District, is not being kept in accordance with the restrictions herein or presents a danger or nuisance to the Community or Owners. The

Metropolitan District may adopt and enforce additional rules and regulations governing the subject of pets within the Community.

8.27 Hazardous Activities/Fires. No activities shall be conducted within the Community which are or might be unsafe or hazardous to any Person or property. Without limiting the generality of the foregoing, no firearms shall be discharged and no open fires shall be lighted or permitted on the project except in a contained barbecue unit, outdoor fireplace, fire pit or chiminea which is attended. Trash, leaves, and other similar materials shall not be burned within the Community.

8.28 Annoying Light, Sound or Odors. No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare; no sound shall be emitted on any Lot which is unreasonably loud or annoying; and no odor shall be emitted on any Lot which is noxious or offensive to others. This section shall not apply to the Commercial Lots, specifically including the Hotel Site.

8.29 Trash Disposal. No trash, garbage, refuse, rubbish, or cuttings shall be deposited on any street, or on any Lot unless placed in a container suitably located, solely for the purpose of garbage pickup. All equipment for the storage or disposal of such materials shall be kept in clean and sanitary condition. It is currently anticipated that the City or the Metropolitan District shall contract for trash collection by a single contractor, and each Lot owner shall be billed directly by the City or said contractor for such services. In order to minimize unsightliness, the Metropolitan District shall have the right to restrict the placement of trash receptacles outside for collection on any day other than the actual day for trash collection. In the event the City or the Metropolitan District does not provide trash collection services as discussed herein, Metropolitan District shall have the right to require trash collection from Lots upon which Residences have been constructed to be performed by only one company and that the trash shall be collected from all Lots by such trash company on the same day of each week in each Neighborhood. In such event, the Metropolitan District shall select the trash collection company based upon competitive bids, and the cost of removal of trash and debris from an Owner's Lot shall be paid by each Lot Owner directly to the trash collection company and the Metropolitan District shall not have the duty to collect the cost of trash collection.

8.30 Storage Tanks. No tanks for the storage of water, hydrogen, gas, fuel, oil, or other materials shall be erected, placed, or permitted above or below the surface of any Residential Lot (other than reasonably sized propane tanks intended for use with gas grills, but only if specifically allowed in the Rules and Regulations). Storage tanks on Commercial Lots shall be subject to any limitations or prohibitions imposed by the Metropolitan District, including total denial of permission for storage tanks.

8.31 Damage or Destruction. In the event any Residence or other structure constructed on a Lot is damaged, either in whole or in part, by fire or other casualty, said Residence or other structure shall be promptly rebuilt, repaired or remodeled to comply with this Declaration. In the alternative, if a damaged Residence or other structure is not to be rebuilt, repaired or remodeled, all remaining portions of the damaged Residence or structure, including the foundation and all debris, shall be promptly removed from the Lot, and the Lot shall be restored to its natural condition existing prior to the construction of the Residence or other structure.

8.32 Temporary Structures. No camper, tent, trailer, motorhome, mobile home or other temporary structure shall be used as a Residence or other living quarters within the Community.

8.33 No Mining or Drilling. No property within the Community shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth.

8.34 Leases. Except as otherwise provided in Section 8.36 and 8.37 below, the Owner of a Lot shall have the right to lease such Owner's Residence, subject to the following conditions:

(a) The lease and the tenant occupying the Residence shall be specifically subject to this Declaration. Any failure of a tenant to comply with such documents shall be a default under the lease.

(b) The Owner and the tenant shall be jointly and severally liable for any violation of this Declaration committed by the Owner's tenant, without prejudice to the Owner's right to collect any sums paid by the Owner on behalf of the tenant.

(c) No more than two (2) unrelated adults may occupy a Residence as tenants.

8.35 Rules and Regulations. Rules and Regulations concerning and governing the use of Lots may be adopted, amended or repealed from time to time by the Metropolitan District. Such Rules and Regulations may address

matters not appearing in this Declaration as well as matters appearing in this Declaration, provided that the Rules and Regulations shall not contradict the provisions of this Declaration. The Metropolitan District may establish and enforce penalties for the infraction of such Rules and Regulations including, without limitation, the levying and collecting of Penalties.

8.36 Fractional Ownership/Timeshares. Notwithstanding anything to the contrary herein, certain areas of the Community known as the Assisted Living and Commercial Hotel parcels may be subject to fractional ownership and timeshare agreements. The use of this portion of the Community for fractional ownership or timeshare purposes is hereby specifically permitted, and no use restriction provided in this Article 8 shall restrict or prohibit such use on the above-described property.

8.37 Hotel Site. The Hotel Site may include, without limitation, a hotel, clubhouse, restaurant, spa, golf pro shop, and such other amenities typically found in golf resort hotels. No restriction provided in this Article 8 shall restrict or prohibit such use on the above-described property.

8.38 RV Site. That portion of the Property described as RV Park may be used as an RV park for camping and temporary use by persons traveling by recreational vehicle ("RV"). No RV may rent, lease or otherwise remain within the RV site for more than twenty (20) consecutive days or more than twenty (20) days within any thirty (30) day period. No long-term residential use or rental shall be permitted even if technically in compliance with the twenty (20) day occupancy restrictions. No restriction provided in this Article 8 shall restrict or prohibit such use on the above-described property.

## 9. MASTER ASSOCIATION.

9.1 Master Association. A Master Association known as the Cougar Canyon Master Association, Inc. ("Master Association") has been or shall be organized for this Community as a Colorado not-for-profit corporation. The Master Association is not intended to be an "association" under the Colorado Common Interest Ownership Act. The Master Association shall not own any common areas or common elements within the Community and shall not have any authority to impose assessments or other financial burdens upon any Lot Owners, but instead shall be organized for the limited purposes provided below.

9.2 Purpose. The Master Association has been or shall be organized to provide a means of communication between Owners and the Metropolitan District. The Master Association shall have the authority to receive and make complaints regarding violations of the Restrictions of this Declaration, receive and make suggestions as to the operation of the Community, and provide other feedback to the Metropolitan District from the Owners regarding any and all aspects of the Community. The Master Association shall work and cooperate with the Community's various Neighborhood Associations. The Metropolitan District shall receive all communications from the Master Association and promptly respond to all of the Master Association's concerns and complaints. The Metropolitan District, at its election, may delegate certain ministerial, nondecision-making covenant enforcement and design review duties to the Master Association. The Master Association shall have no decision-making authority regarding the Restrictions or any design review criteria or covenant enforcement efforts, but instead will report concerns or alleged violations to the Metropolitan District. Although Owners may report violations of the Restrictions and other matters to the Master Association, the Metropolitan District and/or the Design Review Committee or Covenant Enforcement Committee will respond to all claims and complaints from Owners and shall have sole authority to determine whether a violation exists and to remedy such violation, as necessary.

9.3 Membership. All Owners of Lots within the Annexed Property shall be members of the Master Association. Membership shall be appurtenant to, and may not be separated from, the ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership. Each Lot shall be allocated one vote in the Master Association. When more than one Person holds a membership interest in the Lot, all such Persons shall be members. The vote for such Lot shall be exercised as such Persons, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot.

9.4 Executive Board. The affairs of the Master Association shall be managed by an Executive Board. Directors serving on the Executive Board shall be elected by the members of the Master Association, subject to the Declarant's rights as provided in the Articles of Incorporation and Bylaws. The number, term and qualification of the Executive Board shall be fixed by the Articles of Incorporation and Bylaws. The Executive Board may, by resolution, delegate portions of its authority to an executive committee or to other committees, to officers of the Master Association, or to agents or employees of the Master Association, but such delegation of authority shall not relieve the Executive Board of the ultimate responsibility for management of the affairs of the Master Association.

9.5 Financial Reliance. Due to the fact that the Master Association shall have no ability to assess fees or otherwise collect funds for its operations, the Master Association shall be completely dependent upon the Metropolitan District for all operating funds and expenses. The Metropolitan District has approved or shall approve an annual budget with a reasonable allocation for the Master Association's limited operations, specifically including, but not limited to, any management fees, if necessary.

10. DRAINAGE AND SOILS CONDITIONS.

10.1 Acknowledgment. The soils within Colorado consist of both expansive soils and low-density soils which will adversely affect the integrity of a Residence or other Improvement (residential or commercial) if the Residence, the other Improvement and the Lot on which they are constructed are not properly maintained. Expansive soils contain clay minerals which have the characteristic of changing volume with the addition or subtraction of moisture, thereby resulting in swelling and/or shrinking soils. The addition of moisture to low-density soils causes a realignment of soil grains, thereby resulting in consolidation and/or collapse of the soils.

10.2 Disclaimer. The Declarant, its officers, directors and shareholders shall not be liable for any loss or damage to any Residence or other Improvement (residential or commercial) or to any Person, caused by, resulting from, or in any way connected with soil conditions on any Lot, including, by example and not limitation, expansive soils. Owners should carefully consider the risk of planting of any vegetation within five (5) feet of the Residences or other Improvement, as watering of this vegetation could result in loss or damage to a Residence or other Improvement due to expansive or low-density soil.

10.3 Moisture. Each Owner of a Lot shall use his or her best efforts to assure that the moisture content of those soils supporting the foundation and the concrete slabs forming a part of the Improvements constructed thereon remain stable and shall not introduce excessive water into the soils surrounding the Improvements.

10.4 Grading. Each Owner of a Lot shall maintain the elevation, grading, and drainage patterns of the Lot as indicated in the subdivision plans on file with the City.

10.5 Water Flow. The Owner of a Lot shall not impede or hinder in any way the water falling on or passing through the Lot from reaching the drainage courses established for the Lot and the Community.

10.6 Actions by Owners. By accepting title to a Lot, each Owner covenants and agrees:

(a) Not to install improvements, including, but not limited to, landscaping, items related to landscaping, earth berms, walls, walks, driveways, parking pads, patios, fences, Residences, additions to a Residence, outbuildings, or any other item or improvement which will change the grading of the Lot.

(b) To fill with additional soil any back-filled areas adjacent to the foundation of a Residence and in or about the utility trenches on the Lot in which settling occurs to the extent necessary from time to time to maintain the grading and drainage patterns of the Lot.

(c) Not to water the lawn or other landscaping on the Lot excessively.

(d) Not to plant turf grass, flower beds (especially annuals) or vegetable gardens adjacent to or within five (5) feet of the foundation and slabs of a Residence.

(e) To minimize the installation of piping and heads for sprinkler systems within five (5) feet of foundation walls and slabs.

(f) To install any gravel beds in a manner which will assure that water will not pond in the gravel areas, whether due to non-perforated edging or due to installation of the base of the gravel bed at a level lower than the adjacent lawn.

(g) Not to install a moisture barrier (such as polyethylene) under any gravel.

(h) To maintain all gutters and downspouts which discharge water into extensions or splash blocks by assuring that (1) the gutters and downspouts remain in the down position and are free and clear of all obstructions and debris; (2) the water flow from the extension or the splash block is allowed to flow rapidly away from the foundation and/or slabs; and (3) that splash blocks are maintained under sill cocks.

(i) To re-caulk construction joints opening up between portions of the exterior slabs and garage slabs in order to thereby seal out moisture.

(j) Not to alter, obstruct, or obliterate, in any manner, any drainage swales, pans, easements, or channels located or installed, or required to be located or installed, upon the Annexed Property pursuant to established drainage plans.

10.7 Radon Gas. Elevated levels of naturally occurring radon gas may be present in some residential and commercial structures in Colorado. Governmental authorities have voiced concerns about the possible adverse effects on human health from long term exposure to high levels of radon gas. Each Owner is responsible to conduct such Owner's own investigation and consult with such experts as such Owner deems appropriate with respect to the presence or absence of radon gas in the soil on that Owner's Lot. Furthermore, each Owner shall be solely responsible for the mitigation of radon gas on such Owner's Lot. The Declarant, its officers, directors and shareholders, and the Builder of a Residence shall not be liable for the existence of radon gas in any Residence or other Improvement, for any loss or damage to any Residence or other Improvement, or for any injury to any Person caused by, or resulting from, or in any way connected with the existence of radon gas on any Lot.

## 11. SPECIAL DECLARANT RIGHTS.

11.1 Special Declarant Rights. Declarant reserves the right DURING THE DEVELOPMENT PERIOD to perform the acts and exercise the rights specified below (the "Special Declarant Rights"). Declarant's Special Declarant Rights include the following:

(a) Completion of Improvements. The right to construct and complete Improvements within the Community, including, without limitation, the Metropolitan District Property.

(b) Exercise of Development Rights. The right to exercise any right reserved in Article 12 of this Declaration or any other rights reserved by Declarant in this Declaration.

(c) Sales, Management and Marketing. The right within the Community to maintain sales offices, construction offices, management offices, model homes, and signs, flags and other on-site marketing and sales promotion materials advertising the Community. Specifically, Declarant may maintain sales offices within the Community. The Declarant shall have the right to determine the number of model homes and the size and location (including locating sales offices within the Community) of any sales offices, management office, and model homes. The Declarant shall also have the right to relocate any sales offices, management offices, and model homes from time to time at its discretion. After the Declarant ceases to be the Owner of a Lot, the Declarant shall have the right to remove any sales offices and management offices. No structure used by Declarant for a sales office, construction office, management office or model home shall be deemed the property of any party other than Declarant unless specifically assigned, conveyed or dedicated by Declarant to such other party.

(d) Construction and Access Easements. The right to use easements through the Community for the purpose of making Improvements and to provide access within the Community.

(e) Merger. The right to merge or consolidate the Community with another Community of the same nature.

(f) Alteration of Lots. The right to alter any condition (including Lot boundaries, the size and location of structures) on any Lot owned by Declarant, whether with respect to sales and marketing efforts or otherwise.

11.2 Additional Reserved Rights. In addition to the Special Declarant Rights set forth above, Declarant reserves the following additional rights ("Additional Reserved Rights") for the time period specified in Section 11.1:

(a) Amendment of Declaration. The right to amend the Declaration without Owner consent or approval in connection with the exercise of any Development Rights or in connection with the qualification or continued qualification for FHA or VA loan guarantees for the Residences in the Community, and for compliance with FNMA, GNMA, FHLMC requirements or any other available financing programs. Declarant shall also have the right to amend this Declaration to comply with the requirements of Colorado or local law in the event any provision contained in this Declaration does not comply with Colorado or local law.

(b) Errors. The right to amend the Declarations without Owner consent or approval in order to correct clerical, typographical or technical errors, or to clarify any of the Restrictions or any provision hereof.

(c) Amendment of Plat/Re-Plat. The right to supplement the Plat in connection with the exercise of any Development Rights, the right to re-plat all or any portions of the Annexable Property or Annexed Property, the right to create additional Lots up to the maximum number of Lots allowed by the City, the right to subdivide or combine Lots which it owns.

(d) Square Footage Variance. The right to approve construction of Improvements in excess of the limitation on square footage in Section 8.8.

(e) Dedications. The right to establish, from time to time, by dedication or otherwise, utility and other easements over, across, and upon the Annexable Property or Annexed Property for purposes including, but not limited to, streets, paths, walkways, drainage, Recreation Areas, parking areas, and to create other reservations, exceptions, and exclusions over, across, and upon the Annexable Property or Annexed Property for the benefit of the Lot Owners.

(f) Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance, or regulation of the Community, for the benefit of the Lot Owners.

(g) Irrigation Water. The right to use potable or non-potable water, from whatever source, for the following purposes:

(i) Dust control in connection with constructing and completing Improvements within the Community;

(ii) Initial establishment of grass on Tracts and Lots (as a temporary dust and erosion control measure before such Lots are initially sold by Declarant); and

(iii) Initial establishment of grass on open space, planned parks and trails, if any.

(h) Other Rights. The right to exercise any additional reserved right created by any other provision of this Declaration.

11.3 Rights Transferable. Any Special Declarant Right or Additional Reserved Right created or reserved under this article for the benefit of the Declarant may be transferred to any Person by recording an instrument describing the rights transferred with the Clerk and Recorder's Office in every county in which the Community is located. Such instrument shall be executed by the transferor Declarant and the transferee. If the transferor Declarant is a Person other than Trinidad Operations, Inc., no such rights can be transferred without the consent of Trinidad Operations, Inc.

## 12. RESERVATION OF DEVELOPMENT RIGHTS.

12.1 Development Rights. During the Development Period, Declarant reserves the following rights ("Development Rights"):

(a) Expansion Rights. Declarant reserves the right (but is not required) to subject all or any portion of the Annexable Property to the provisions of this Declaration in accordance with Section 12.2 below. Furthermore the Declarant reserves the right to subject all or any portion of the Annexable Property to such other covenants, conditions and restrictions as Declarant deems appropriate. If such other covenants, conditions and restrictions conflict or are inconsistent with this Declaration, those other covenants, conditions and restrictions shall control with regard to the subject Annexed Property. The consent of the existing Lot Owners shall not be required for the exercise of these rights, and Declarant may proceed to exercise such rights without limitation, at its sole option.

(b) Other Development Rights. Declarant reserves the right to create additional Lots and to subdivide the Lots on all or any portion of the Annexable Property.

(c) Exercise of Rights. Declarant may exercise any Development Right with respect to all or a portion of different parcels of property at different times in whatever order the Declarant, in its sole discretion, may determine. If any Development Right is exercised as to one portion of the Annexable Property, such Development Right need not be exercised as to any remaining portion of the Annexable Property.

12.2 Supplements to the Declaration. If Declarant elects to submit the Annexable Property or any part thereof to this Declaration, such additions shall be expressed in and by a duly recorded supplement to this Declaration (which, for purposes of Annexable Property, may be a Supplemental Declaration). The recording of any such supplement

and the resulting expansion of the Community shall not require the consent or ratification of any Lot Owner other than the Declarant, but shall require the written consent of the owner of the portion of the Annexable Property being submitted, if applicable (if, at the time such portion of the Annexable Property then being submitted to this Declaration is not then owned by the Declarant), which consent may be granted, conditioned or withheld in the sole and absolute discretion of such Annexable Property owner. The reference to the Plat and Declaration in any instrument shall be deemed to include any supplements to the Plat and Declaration without specific reference thereto. A Supplemental Declaration may impose on the Annexable Property described therein additional covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and provisions other than those set forth in this Declaration, taking into account the unique and particular aspects of the Neighborhood within such real property covered thereby. A Supplemental Declaration may also specify that certain provisions of this Declaration do not apply to a given Neighborhood or other portion of Annexed or Annexable Property in light of different uses being made of such Neighborhood property, in which case the Supplemental Declaration may contain covenants, conditions and restrictions different from this Declaration. Upon recordation of a Supplemental Declaration, the portion of the property subject to the Supplemental Declaration shall become part of the Community and shall be subject to all 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.

12.3 Interpretation. Upon the recording of a supplement or amendment to the Declaration, the property subject thereto, or any part thereof covered thereby as specifically stated therein, automatically shall be added to and become a part of the Community for all purposes, and the definitions in this Declaration automatically shall be extended to encompass and refer to all property then comprising the Community. Reference to the Declaration in any instrument shall be deemed to include all supplements and amendments to the Declaration without specific reference thereto.

12.4 Utilities Easement. Declarant hereby reserves to itself, the Metropolitan District, and their respective successors and assigns for itself and for the Metropolitan District a blanket easement upon, across, over and under the Annexed Property, specifically including the Metropolitan District Property, for utilities and the installation, use, replacement, repair and maintenance of utilities, including, but not limited to, water, sewer, gas, telephone, electricity, computer cable, and master television antenna or cable or satellite television systems, if any. By virtue of this blanket easement, it shall be expressly permissible to erect, use and maintain the necessary facilities, equipment and appurtenances on the Annexed Property, specifically including the Metropolitan District Property, and to affix, use, repair and maintain water and sewer pipes, gas, electric, telephone, computer and television wires, cables, circuits, conduits and meters. In the event any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over or under any part or all of the Annexed Property, specifically including the Metropolitan District Property, without conflicting with the terms hereof; provided, however, that such right and authority of the Declarant shall automatically cease at such time as the Special Declarant Rights terminate as provided in Article 11 of this Declaration, at which time said reserved rights shall vest in the Metropolitan District. The easement provided for in this section shall in no way affect, avoid, extinguish or modify any other recorded easement(s) on the Annexed Property, specifically including the Metropolitan District Property.

12.5 Drainage Easement. Declarant hereby reserves, to itself, the Metropolitan District, their respective successors and assigns easements for drainage or drainage facilities across the five (5) rear and five (5) side feet of each Lot; provided, however, that such easement shall not exist if and to the extent a Residence or commercial buildings are located upon any of the areas described in this sentence. Except for Residences or commercial buildings as provided in the preceding sentence, no improvements shall be placed or permitted to remain on any Lot, nor shall any change in grading be permitted to exist which may change the direction of flow or obstruct or retard the flow of water through channels or swales within such rear and side yard drainage easements. Declarant reserves to itself and to the Metropolitan District the right to enter in and upon each five (5) foot rear and side yard drainage easements at any time to construct, repair, replace or change drainage structures or to perform such grading, draining or corrective work as Declarant or the Metropolitan District may deem necessary or desirable in their sole discretion from time to time; provided, however, that such right and authority in the Declarant shall automatically cease at such time as the Special Declarant Rights terminate as provided in Article 11 of this Declaration, at which time such reserved right shall vest solely in the Metropolitan District.

12.6 Reciprocal Easements. If all or part of the Annexable Property is not submitted to this Declaration, (i) the Owner(s) of the property not submitted shall be granted whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance, and emergencies over and across the Community, at the Declarant's reasonable discretion; and (ii) the Lot Owner(s) in the Community shall have whatever easements are necessary, if any, for access, utility service, repair, maintenance, and emergencies over and across said Annexable Property or as the Owners of such Annexable Property may reasonably determine. Declarant shall prepare and record in the office of the Clerk and Recorder of Las Animas County, Colorado, whatever documents are necessary to evidence such easements. Such recorded easement(s) shall specify that the Owners of the Annexable Property not submitted and the Lot Owners

in the Community shall be obligated to pay a proportionate share of the cost of the operation and maintenance of any easements utilized by either one of them on the other's property upon such reasonable basis as the Declarant shall establish in the easement(s). Preparation and recordation by Declarant of an easement pursuant to this article shall conclusively determine the existence, location, and extent of the reciprocal easements that are necessary or desirable as contemplated by this article.

12.7 Transfer of Development Rights. Any expansion, development, or other right created or reserved under this article for the benefit of Declarant may be transferred to any Person by an instrument describing the rights transferred and recorded. Such instrument shall be executed by the transferor Declarant and the transferee. If the transferor Declarant is a Person other than Trinidad Operations, Inc., no such rights can be transferred without the consent of Trinidad Operations, Inc.

12.8 Withdrawal of Property From Declaration. Declarant reserves the right to withdraw any or all of the Annexed Property from this Declaration by recording an executed "Notice of Withdraw" in the Records. Following the recording of such Notice of Withdraw in the Records, such Annexed Property shall no longer be subject to any of the terms, conditions, and restrictions of this Declaration.

### 13. IRRIGATION WATER CHANNELS, CANALS AND DITCHES.

Given the presence of water channels, canals and ditches, there may be surface and sub-surface waters that arise within the area of the Community, and there may be periods of time when, due to water flowing within the water channels, canals and ditches or otherwise, portions of the Community may receive surface and/or sub-surface water and be subject to flooding. Additionally, there are certain risks and dangers of physical injury and property damage inherent in the physical configuration of the water channels, canals and ditches, and the location of the water channels, canals and ditches relative to the Community. Neither the Metropolitan District nor the Declarant, its officers, directors or shareholders, shall be liable for any injury, loss or damage arising from such flooding or otherwise arising from the proximity of the water channels, canals or ditches to the Community.

### 14. OVERHEAD ELECTRIC TRANSMISSION LINES.

Overhead Electric Transmission Lines may be located within or near the Community. Such lines may cause electromagnetic fields ("EMF"), which consist of electric (E) and magnetic (M) waves. According to the World Health Organization's Fact Sheet Number 205 entitled "Electromagnetic fields and public health: extremely low frequency (ELF)" dated November 1998 (the "WHO Report"), EMF are also created by standard household devices. Electric fields are created by any device connected to an electric outlet, even if the device is not switched on. Magnetic fields are also created by any device connected to an electric outlet, but only when the device is switched "on" or there is electric current running through the device. According to the WHO Report, scientists have not conclusively found any direct link between EMF exposure and adverse health effects. Transmission lines may cause noise in the form of a buzzing or humming sound, and such lines may produce corona or electric discharges into the air (which can be visible on a humid night or during rainfall). According to the WHO Report, neither of these events cause health consequences. The Declarant and the Metropolitan District urge any person that has concerns about the existence of the overhead electric transmission lines within the Community to conduct their own independent research regarding any potential health or other hazards that may arise or exist due to the location of such transmission lines. Neither the Metropolitan District nor the Declarant, its managers, members or agents, shall be liable for any injury loss or damage arising from the location of the overhead electric transmission lines located within the Community.

### 15. NON-POTABLE WATER IRRIGATION SYSTEM.

15.1 Irrigation Wells and System. The Metropolitan District and/or the Declarant may, in their sole discretion, elect to purchase or lease non-potable irrigation water from any available source. If so elected, such non-potable water will be delivered to the Metropolitan District or the Declarant through an irrigation system to be constructed by the Metropolitan District or the Declarant which may include, if applicable, one or more irrigation wells, well houses, pumps, pipes, distribution systems, and related equipment (the "Irrigation System"). If the Irrigation System is installed by the Metropolitan District, it will then be owned, operated, maintained, repaired and replaced by the Metropolitan District as the Metropolitan District Property. To the extent legally permissible, non-potable irrigation water from the Irrigation System may also be used by the Metropolitan District or any applicable Neighborhood Association to irrigate areas within any Tract or Lot that the Metropolitan District or any Neighborhood Association is responsible for landscaping and irrigating pursuant to the terms of this Declaration, any Supplemental Declaration or other written agreement that might be entered into by the Metropolitan District or any Neighborhood Association.

15.2 Notice of Risk, Disclaimer and Waiver. Non-potable irrigation water is not fit for human consumption. In the event the Metropolitan District, the Declarant or a Neighborhood Association elects to establish the Irrigation

System as discussed in Section 15.1 above, Owners should take appropriate precautions to prevent any person from drinking non-potable irrigation water or otherwise making any use of such water which may be damaging to a person's health. To the extent such water may be harmful to animals, the Owners and those otherwise having the care, custody and control of such animals should also take appropriate precautions to prevent any animal from drinking the non-potable irrigation water or otherwise exposing the animal to such water in a manner which would be damaging to the animal's health. Neither the Metropolitan District nor the Declarant, its officers, directors or shareholders shall be liable for any injury, loss or damage arising from the use of non-potable irrigation water for any purpose other than irrigation and, by accepting a deed to a Lot the Lot Owner knowingly and voluntarily waives any such claims against the Declarant, its assignees and the Metropolitan District.

16. PARTY WALLS.

16.1 General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Residences or other Improvements and placed between the Lots shall constitute a "Party Wall," and, to the extent not inconsistent with the provisions of this article, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply. In the event that a Lot or a Neighborhood Supplemental Declaration regarding Party Walls is more restrictive as to that property than this Declaration, that more restrictive instrument shall control.

16.2 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Lot Owners who make use of the Party Wall in proportion to such use.

16.3 Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any Lot Owner who has used the Party Wall may restore it, and if the other Lot Owners thereafter make use of the Party Wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Lot Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

16.4 Damage and Repair. Notwithstanding any other provision of this article, an Owner who by his negligence or willful acts causes the Party Wall to be damaged shall bear the entire cost of repairing such damage. The Owner causing such damage shall, within forty-eight (48) hours, commence to repair or reconstruct the damaged Party Wall to its original condition and shall diligently complete all such repairs and reconstruction. If such Owner shall fail to do so, then the Owner of the Lot abutting such Party Wall may do so at the sole cost and expense of the Owner causing such damage.

16.5 Right to Contribution Runs with Lot. The right of any Lot Owner to contribution from any other Owner under this article shall be appurtenant to the Lot and shall pass to such Owner's successors in title.

16.6 Insurance. Any Residence which has a Party Wall shall be insured against all casualty losses reasonably available to Owners in the full replacement value of the Residence. Each separate policy shall name the Owners of adjacent Residences as additional insureds.

16.7 Arbitration. In the event of a dispute arising concerning the provisions of this article, the parties shall resolve such dispute in accordance with the terms of Section 19.12.

17. RECREATION AREA.

17.1 General. The Recreation Areas, the Recreation Facilities and the Recreation Property shall not be subject to any covenant, condition or restriction provided in this Declaration, specifically including, but not limited to, Design Guidelines or use restrictions. Certain property within the Community shall be developed in phases as the population of the Community grows by the Recreation Owner or other private parties as a Recreation Area, including one or more recreational buildings and other related amenities upon the terms described below. Pursuant to the terms of an agreement between the Metropolitan District and the initial Recreation Owner, certain Recreation Areas and Recreation Facilities may be available for the use of the Owners, as well as their tenants and guests, and the guests of the hotel to be constructed upon the Hotel Site and the general public. Neither the Declarant nor the Metropolitan District shall have any obligation to construct a recreation building or other facility. The Recreation Owner has agreed to construct the first phase of the Recreation Facilities upon the first to occur of: (i) sale of the five hundredth (500th) Lot to Builders or Owners; or (ii) issuance of the four hundredth (400th) building permit for the construction of a Residence on the Lots by the City or its successor ("Commencement Date"). The Metropolitan District shall require the Recreation Owner to commence construction of the first phase and shall include planning and permitting with physical construction activities within approximately three (3) months after the above Commencement Date, with completion to be within approximately eighteen (18) months after the above Commencement Date.

17.2 Recreation Facilities. The Recreation Facilities will be constructed and owned by the Recreation Owner or other party to which the Metropolitan District grants such right and responsibility. The construction and operating costs will be paid from the Recreation Owner's separate funds plus proceeds of a system development fee collected by the Metropolitan District from Builders and usage fees collected by the Metropolitan District. The Recreation Area and the Recreation Facilities may be mortgaged in order to secure financing for the Recreation Facilities. The Metropolitan District may appoint the Recreation Owner as its agent to collect these fees.

17.3 Use of Recreation Facilities. Pursuant to the terms of an agreement between the Metropolitan District and the Recreation Owner, and provided that the System Development Fee and Recreational Assessment Fee are collected by the Metropolitan District and adequate funds are provided to the Recreation Owner, use of the Recreation Facilities shall be available to the Owners of Residential Lots which are subject to this Declaration and to other Persons whom the Recreation Owner may invite, including, but not limited to, guests of the hotel to be constructed upon the Hotel Site (hereinafter referred to as "Recreation Members," and such membership referred to as a "Recreation Membership"). If this Agreement is terminated, the Recreation Owner may close the Recreation Facilities, terminate Owners' use of the Recreation Facilities, and use the Recreation Facilities as the Recreation Owner determines, in its sole discretion. Use shall be subject to any guidelines or rules that are promulgated from time to time by the Recreation Owner. All rights of Owners to use the Recreation Facilities shall be determined by the Recreation Owner. Upon the sale of any Lot, the rights to use the Recreation Facilities shall be transferred to the new Owner.

17.4 Use of Temporary Recreation Facilities. Cougar Canyon Resorts, LLC intends to construct a hotel upon the Hotel Site which shall include recreation facilities. The owner of the hotel and the Recreation Owner shall make some of the hotel's recreation facilities available for use by Owners prior to construction of the Recreation Facilities pursuant to the terms of an agreement with the Metropolitan District, provided that adequate usage fees are collected by the Metropolitan District for this purpose.

17.5 Number of Memberships. There shall be allocated one Recreation Membership to each Residential Lot, along with guest and other temporary memberships as the Recreation Owner determines is necessary, in its sole and absolute discretion.

17.6 System Development Fee. The Metropolitan District has imposed and shall collect a one-time System Development Fee for each Residential Lot of Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) ("System Development Fee"). This amount may be increased or decreased by the Metropolitan District, in the Metropolitan District's sole discretion. Such System Development Fee shall be collected upon (a) closing of the purchase of any Lot by a Builder or any Purchaser; or (b) in the discretion of the Metropolitan District, a Builder who is constructing multiple Residences in the Community may be allowed to defer payment of the System Development Fee until issuance of a building permit for construction of a Residence on a Lot or closing of sale of the Residence on the Lot, but no longer than eighteen (18) months after closing of the purchase of any Lot.

17.7 Recreational Assessment. The Metropolitan District has imposed and shall collect usage fees to be paid by all owners, including Owners of fractional ownership properties, which fee is to cover all costs of operation, insurance, maintenance, administration, repair and replacement of the Recreation Areas and Recreation Facilities ("Recreational Assessment"). The Metropolitan District, on an annual basis, shall establish the amount of such Recreational Assessment, which shall be due upon establishment and payable on such periodic basis as the Board shall direct. All Recreational Assessments shall be paid to the Recreation Owner for these purposes. The Recreation Owner may be appointed to collect Recreational Assessments. The Metropolitan District may also impose other assessments for maintenance of properties within the Community which are not related to the Recreation Areas and Recreation Facilities. Other than usage fees for the temporary use of the hotel facilities, normal recreational facility usage fees will not be imposed until completion of the first phase of the Recreation Facility.

17.8 Usage/Guests. Each Owner shall designate one primary person as the "Recreation Member." Usage of the Recreation Facilities shall be limited to such designated member and such member's spouse, children, grandchildren, parents and grandparents who actually reside with such member in the Community (hereinafter referred to as "Residing Family Members"). Guests may also be allowed to use the Recreation Facilities subject to any guidelines and rules as promulgated from time to time by the Recreation Owner (which may include a daily or periodic guest fee).

17.9 Transferability of Memberships. The right to use in the Recreation Facilities shall be transferred to subsequent purchasers of a Recreation Member's Lot. Membership in the Recreation Area will automatically terminate in the event any Person is no longer the Owner of a Lot subject to this Declaration). Except as may be otherwise specifically provided herein, a Recreation Member will not be entitled to any refund or reimbursement for any System Development Fee or annual Recreational Assessment.

17.10 Recreation Area Committee. The Metropolitan District may establish an advisory "Recreation Area Committee" to consult with the Metropolitan District related to the Recreation Area and the Recreation Facilities, including recommending guidelines and rules applicable to the use and enjoyment of the Recreation Area. If such committee is established, it shall have three (3) or more members, which members need not be members of the Metropolitan District's governing board.

17.11 Ownership of Recreation Areas and Recreation Facilities. **THE RECREATION FACILITIES ARE PRIVATELY OWNED. THE OWNERS ACKNOWLEDGE THAT ALTHOUGH THE RECREATION AREAS AND RECREATION FACILITIES ARE SPONSORED BY THE METROPOLITAN DISTRICT, SUCH RECREATION AREAS AND RECREATION FACILITIES ARE PRIVATELY OWNED AND OPERATED. FURTHER, THE OWNERS ACKNOWLEDGE THAT NEITHER PAYMENT OF THE SYSTEM DEVELOPMENT FEE NOR THE ANNUAL RECREATIONAL ASSESSMENT SHALL GRANT AN OWNER OR THE METROPOLITAN DISTRICT ANY PROPRIETARY OR OTHER RIGHT IN THE OPERATION AND OWNERSHIP OF THE RECREATION AREAS OR RECREATION FACILITIES. IN THE EVENT THAT THE CONTRACT BETWEEN THE RECREATION OWNER AND THE METROPOLITAN DISTRICT PROVIDING FOR OWNERS' USE OF THE RECREATION AREA AND RECREATION FACILITIES IS TERMINATED OR IN BREACH, THE RECREATION OWNER MAY OPERATE ITS PROPERTIES AS PRIVATE FACILITIES UPON SUCH TERMS AS IT MAY DETERMINE IN ITS SOLE DISCRETION, AND ALL RECREATIONAL ASSESSMENTS AND USE OF RECREATION FACILITIES BY OWNERS AS DESCRIBED IN THIS DECLARATION SHALL END.**

18. GOLF COURSE.

18.1 Golf Facilities. The Golf Facilities are not part of the Community and are not subject to this Declaration, and no provision of this Declaration gives, or shall be deemed to give, any Owner, the right to use the Golf Facilities or any ownership interest in the Golf Facilities.

(a) *Rights to use the Golf Facilities will be granted only to those persons, and on those terms and conditions, as may be determined from time to time by the Golf Owner. By way of example, but not limitation, the Golf Owner shall have the right to approve users and determine eligibility for use, to reserve use rights, to transfer any or all of the Golf Facilities or operation thereof to anyone and on any terms, to limit availability of use privileges, and to require the payment of a purchase price, a membership contribution, an initiation fee, a membership deposit, dues and/or per-use charges. Each Owner and occupant hereby acknowledges that no right to the use or enjoyment of the Golf Facilities arises from ownership or occupancy but arises, if at all, only from a membership agreement or other similar agreement with the Golf Owner. The Golf Owner shall have the right, from time to time in its sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of the Golf Facilities including, but not limited to, eligibility for and duration of use rights, categories of use, extent of use privileges and number of users. The Golf Owner shall also have the right, in its sole and absolute discretion and without notice, to reserve use rights and to terminate use rights altogether, subject to the provisions of any outstanding membership documents.*

(b) Except as may be specifically provided in this Declaration, all Owners are hereby advised that no representations or warranties have been or are made by Declarant, any Builder or Golf Owner with regard to the present or future ownership, operation, use or configuration of the Golf Facilities constructed or to be constructed, whether or not depicted on any plat or any land use plan, sales brochure or other marketing display or material and no purported representation or warranty, written or oral, in such regard shall ever be effective without an amendment hereto executed by the parties hereto or their respective successors.

(c) **THE GOLF COURSE IS PRIVATELY OWNED AND OPERATED. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, NEITHER THE DECLARANT NOR THE METROPOLITAN DISTRICT HAS ANY CONTROL OVER THE FEES, COSTS OR MEMBERSHIP RIGHTS IN THE GOLF COURSE, AND ALL OWNERS HEREBY ACKNOWLEDGE AND AGREE THAT BY VIRTUE OF THEIR OWNERSHIP OF A LOT, THEY HAVE NO PROPERTY RIGHTS OR EQUITABLE RIGHTS RELATING TO THE USE, OWNERSHIP OR ECONOMIC RIGHTS OF THE GOLF COURSE.**

18.2 Golf Course Community.

(a) Acknowledgment of Golf Course Risks. By virtue of ownership of a Lot, the Owner assumes the risks of purchasing residential property within a golf course community. Such risks include, without limitation, the following:

(i) maintenance, watering and repair of the Golf Course may begin early in the morning and extend late into the evening;

(ii) noise and other effects of daily maintenance, including mowing, irrigation and grooming, during early morning and evening hours, including without limitation, the use of tractors, blowers, pumps, compressors and utility vehicles;

(iii) Owners, including Owners of Lots abutting the Golf Facilities, have no guarantee that their view over and across the Golf Facilities will be forever preserved without impairment or that the view from the Golf Facilities will not be impaired. The Golf Owner has no obligation to prune or not prune trees or other landscaping, and such Golf Owner has reserved the right, at its sole and absolute discretion, to add, change or reconfigure the Golf Course and other related facilities, including any trees, landscapes, tees, bunkers, fairways and greens;

(iv) Owners, particularly Owners of Lots in proximity to any clubhouse constructed as part of the Golf Facilities may be exposed to lights, noise or activities resulting from use of the Golf Course for tournaments, from use of any clubhouse constructed for dining and entertainment and use of the parking lot;

(v) artificial and/or naturally occurring bodies of water which may include, but are not limited to, ponds, lakes, streams and waterfalls that may pose a danger to anyone who might enter therein;

(vi) the Golf Course may be heavily fertilized from time to time;

(vii) maintenance of the Golf Course may require the use of chemicals and pesticides;

(viii) the Golf Course may be watered with reclaimed water;

(ix) golf balls are not susceptible to being easily controlled and, accordingly, may enter any air space, strike any Owners their guests, invitees, family members or other Persons, yard, walls, roof, windows, landscaping and personal property, which may cause personal injury, death or property damage;

(x) any invasions of any Owner's use or enjoyment of such Owner's Lot;

(xi) improper design of the Golf Course;

(xii) use, operations, storage, maintenance or repair of golf carts or other equipment, implements or materials;

(xiii) the level of skill of any golfer (regardless of whether such golfer has permission to use the Golf Course);

(xiv) noise, excrement or other activities of geese or other wildlife, animals or insects; and

(xv) trespass by any golfer on a Lot (collectively, the "Golf Course Risks").

(b) Release and Indemnification. AS A RESULT OF ACQUISITION OF A LOT, OWNERS RELEASE AND DISCHARGE THE DECLARANT, THE GOLF OWNER AND ALL BUILDERS FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, DEMANDS, LIABILITIES, OBLIGATIONS, ACTIONS OR CAUSES OF ACTION WHATSOEVER REGARDING THE GOLF COURSE RISKS. FURTHERMORE, EACH OWNER HEREBY ASSUMES THE RISKS INHERENT IN OWNING PROPERTY ADJACENT TO OR NEAR THE GOLF COURSE, INCLUDING, WITHOUT LIMITATION, THE GOLF COURSE RISKS AND THE RISK OF DEATH, PERSONAL INJURY AND PROPERTY DAMAGE FROM ERRANT GOLF BALLS OR OTHER MATTERS INCIDENTAL TO USE AND OPERATION OF THE GOLF COURSE, AND HEREBY INDEMNIFY AND AGREE TO HOLD THE DECLARANT, THE GOLF OWNER AND ALL BUILDERS HARMLESS FROM ANY AND ALL LOSS ARISING FROM CLAIMS BY SUCH OWNER(S) AND BY ALL PERSONS USING OR VISITING SUCH OWNER'S LOT, FOR DEATH, PERSONAL INJURY OR PROPERTY DAMAGE RELATED TO THE GOLF COURSE RISKS. NOTWITHSTANDING ANYTHING IN THE FOREGOING TO THE CONTRARY, GOLFERS ARE NOT INTENDED TO BE RELEASED PARTIES, AND OWNERS SHALL NOT BE DEEMED TO HAVE WAIVED ANY RIGHTS WHICH AN OWNER MAY HAVE AGAINST ANY GOLFER. NO AMENDMENT TO THIS SECTION 18.2 AND NO AMENDMENT IN DEROGATION OF THIS SECTION TO ANY OTHER PROVISIONS OF THIS DECLARATION MAY BE MADE, WITHOUT THE WRITTEN APPROVAL THEREOF BY THE GOLF OWNER. THE FOREGOING SHALL NOT APPLY, HOWEVER, TO AMENDMENTS MADE PURSUANT TO REQUIREMENTS OF ANY GOVERNMENTAL AUTHORITY.

18.3 Golf Course Activities and Operations.

(a) The Golf Facilities may be subject to ongoing and future construction activities relating to their development (the "Construction Activities"). The Construction Activities are expected to generate an unpredictable amount of visible, audible and odorous impacts and disturbances. The Construction Activities may include, without limitation: (i) construction traffic (including, without limitation, construction vehicles, equipment and vehicles used or owned by Declarant, the Golf Owner, adjacent landowners, and the employees, agents and contractors of either of them); and (ii) construction activities (including, without limitation, grading, excavation, cleaning, site work, construction, reconstruction and repair of improvements) relating to the Golf Facilities.

(b) Each Owner acknowledges and agrees that: (i) portions of the Community are adjacent to or near the Golf Facilities; (ii) the hotel, any clubhouse, parking lots and other facilities, which are constructed as part of the Golf Facilities, may have exterior lighting and amplified exterior sound, may be used for the entertainment and social events on various days of the week, including weekends, during various times of the day, including without limitation, early morning and late evening hours; (iii) Golf Course-related activities, including without limitation, regular course play, may be allowed during all daylight hours, and golf tournaments may be conducted at any time during the year; (iv) from time to time Golf Course-related activities, including without limitation, special events, may be allowed during nighttime and early-morning hours; (v) large numbers of people may be entering, exiting and using the Golf Facilities during various times of the day, including early morning and late evening hours, seven (7) days a week; and (vi) water hazards, any clubhouse, maintenance facilities and other installations located on the Golf Facilities may be attractive nuisances to children. Each Owner also acknowledges that due to the proximity of portions of the Community to the Golf Facilities, nuisances, hazards or injuries to persons and property may occur on the Community as a result of use of the Golf Facilities, or as a result of any other Golf Course-related activities, including, without limitation, damage to windows and exterior areas of the improvements constructed upon each Lot, damage to automobiles and other personal property of the Owners, whether outdoors or within any indoor structure.

(c) Each Owner acknowledges and agrees that: the operation and maintenance of the Golf Facilities may require that maintenance personnel and other workers who operate, service and maintain the Golf Facilities commence work relating to the maintenance (other than irrigation, which may be conducted at any time) and repair of the Golf Course before sunrise and after sunset on a daily basis.

18.4 Easements.

(a) Every Lot is hereby subject to an easement permitting activities related to the operation of the Golf Facilities, including without limitation, (i) maintenance and operation of the Golf Facilities; (ii) Golf Course play, including every act necessary and proper to the playing of golf and the usual and common noise level created by the playing of the game of golf; (iii) use of the Golf Facilities for golf tournaments and events; and (iv) use of the Golf Facilities for social events.

(b) Every Lot is hereby subject to an easement permitting golf balls unintentionally to come upon such areas, and for golfers at reasonable times and in a reasonable manner to come upon a Lot to retrieve errant golf balls. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following persons be held liable for any damage or injury resulting from errant golf balls or the use of this easement: Declarant, the Builders, the Metropolitan District, developer, architect, designer, contractor of the Golf Facilities, the members or authorized users and guests of the Golf Facilities, the Golf Owner, and each of their respective officers, directors, shareholders, affiliates, successors and assigns.

(c) Any portion of the Community immediately adjacent to the Golf Course is hereby subject to a non-exclusive easement in favor of the adjacent Golf Course for over-spray of water from the irrigation system serving such Golf Course. Under no circumstances shall the Association or the Golf Owner be held liable for any damage or injury resulting from such overspray or the use of this easement.

(d) The Golf Facilities users (regardless of whether such users are Owners), employees, agents, contractors and designers shall at all times have a right and non-exclusive easement of access and use over all roadways located within the Community as reasonably necessary to travel to and from any entrance within the Community to and from the Golf Facilities and, further, over those portions of the Community reasonably necessary to the operation, maintenance, repair and replacement of the Golf Facilities, subject to the reasonable cost of repairing those portions of the Community. Without limiting the generality of the foregoing, users of the Golf Facilities shall have the right to park their vehicles on the roadways within the Community at reasonable times before, during and after golf tournaments and other functions held at the Golf Facilities.

(e) No amendment to this Section 18.4 and no amendment in derogation of this section to any other provisions of this Declaration may be made, without the written approval thereof by the Golf Owner. The foregoing shall not apply, however, to amendments made pursuant to requirements of any governmental authority.

## 19. MISCELLANEOUS PROVISIONS.

19.1 Enforcement. Enforcement of any provision of this Declaration, the Guidelines, and any Rules and Regulations shall be by appropriate proceedings at law or in equity against those Persons violating or attempting to violate any such provision. Such proceedings may be for the purpose of removing a violation, restraining or enjoining a future violation, recovering damages for any violation, foreclosing a lien, obtaining such other and further relief as may be available, or any combination thereof. Such proceedings may be instituted by an Owner or the Metropolitan District or its designated committee. In any such proceedings the prevailing party shall recover the costs and reasonable attorney's fees incurred in connection with such proceedings. In addition, the Metropolitan District may levy Penalties against a Lot Owner, or such Owner's lessee, because of a violation of the terms of this Declaration. Reasonable notice and the opportunity for a hearing shall be provided to the affected Lot Owner, or such Owner's lessee, before any such Penalties are assessed. The unpaid Penalties shall be added to the taxes and fees assessed against the Lot of such Lot Owner by the Metropolitan District. The failure to enforce any provision of this Declaration, the Guidelines, and the Rules and Regulations shall not preclude or prevent the enforcement thereof for a further or continued violation, whether such violation shall be of the same or of a different provision. The Metropolitan District shall not be liable to reimburse any Lot Owner for attorney's fees or costs incurred in any suit brought by a Lot Owner to enforce or attempt to enforce this Declaration.

19.2 Neighborhood Associations. Nothing in this Declaration shall prohibit the organization or creation of any Neighborhood Association in which the membership is composed of Owners of Lots within all or part of an area covered by a supplemental declaration. Such Neighborhood Associations shall have the right to impose assessments, own common areas, and/or perform all duties typically allocated to a homeowner association under the Colorado Common Interest Ownership Act, or otherwise, subject to this Declaration and its Restrictions.

19.3 Severability. If any provision or term of this Declaration is invalidated, such invalidity shall not affect the validity of the remainder of this Declaration.

19.4 Duration. The covenants, conditions and restrictions of this Declaration shall run with the Annexed Property, shall be binding on all Lot Owners, their legal representatives, heirs, successors and assigns, and shall be in effect in perpetuity unless amended or terminated as provided in this Declaration.

19.5 Amendment. Except as otherwise provided in this Declaration, this Declaration may be amended (by (a) either modifying or deleting any existing provisions or (b) adding new provisions) or terminated at any time by a written and recorded instrument containing the consents of the then record Owners of at least seventy-five percent (75%) of the Lots subject to this Declaration. Furthermore, all amendments to this Declaration must have the approval of FNMA, GNMA, FHLMC, FHA or VA, if FNMA, GNMA, FHLMC, FHA or VA has guaranteed any loans secured by Lots. Additionally, Declarant shall provide a copy of all Declaration amendments to FNMA, GNMA, FHLMC, FHA or VA, if FNMA, GNMA, FHLMC, FHA or VA has guaranteed any loans secured by Lots.

19.6 Waiver. No provision in this Declaration is waived by reason of any failure to enforce the provision, regardless of the number of violations or breaches which may occur.

19.7 Limited Liability. Neither Declarant, the Metropolitan District, nor any member, committee member, agent or employee of any of the same shall be liable to any party for any action or for any failure to act with respect to any matter in which the action taken or failure to act was in good faith and without malice. Such parties shall be reimbursed by the Metropolitan District for any costs and expenses, including reasonable attorney's fees, incurred by them with the prior approval of the Metropolitan District (which approval shall not unreasonably be withheld) as a result of the threatened or pending litigation in which they are or may be named as parties.

19.8 Retention Ponds and Detention Ponds. In furtherance of developing the Community, retention ponds and/or detention ponds may be constructed within Metropolitan District Property to hold and release storm water in accordance with storm water drainage plan(s) that have been or will be approved by the City. Ponds located on the Golf Course property are excluded, although they may be managed to accomplish these same flood control concerns. The Metropolitan District will be responsible for maintaining any retention ponds or detention ponds within the Community. With the presence of retention pond(s) or detention pond(s), there may be surface water that accumulates within the area of such ponds, and there may be periods of time when the area immediately surrounding a retention pond or detention pond is subject to flooding. Additionally, there are certain risks and dangers of physical injury and property damage inherent in the physical configuration of a retention pond and a detention pond, and the location of such a pond relative

to the Community. Neither the Metropolitan District nor the Declarant, its officers, directors or shareholders, shall be liable for any injury, loss or damage arising from such flooding or otherwise arising from the proximity of any retention ponds or detention ponds to the Community.

**19.9 Disclaimer Regarding Safety.** DECLARANT AND THE METROPOLITAN DISTRICT AND THE MASTER ASSOCIATION AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY. BY ACCEPTING A DEED TO PROPERTY WITHIN THE COMMUNITY, EACH OWNER ACKNOWLEDGES THAT DECLARANT AND THE METROPOLITAN DISTRICT AND THE MASTER ASSOCIATION AND THEIR OFFICERS, DIRECTORS, MEMBERS, COMMITTEE MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE RULES AND REGULATIONS AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY.

**19.10 No Representations, Guaranties or Warranties.** No representations, guaranties or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant, the Metropolitan District, the Master Association, or by any of their officers, directors, shareholders, members, partners, agents or employees in connection with any portion of the Community, the Recreation Areas, the Recreation Facilities, or any Improvement, its physical condition, structural integrity, freedom from defects, zoning, compliance with applicable laws, fitness for intended use, or view, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as specifically set forth in writing. The release and waiver set forth in Section 19.11 shall apply to this section.

**19.11 Waiver.** By acceptance of a deed to a Lot, each Owner hereby releases, waives and discharges the Declarant and its respective officers, directors, members, partners, agents, employees, heirs, personal representatives, successors and assigns from all losses, claims, liabilities, costs, expenses and damages arising directly or indirectly from any hazards, disclosures or risks set forth in this Declaration.

**19.12 Arbitration of Disputes.** All Disputes (as defined below) shall be subject to binding arbitration, as follows:

(a) **Binding Arbitration.** Any action, dispute, claim or controversy between the Declarant and the Metropolitan District and Owners, or any of them, whether sounding in contract, tort or otherwise, and whether or not concerning an individual Lot or other portion of the Project (the "Dispute" or "Disputes"), shall be resolved by binding arbitration as set forth in this section. Such Dispute shall be resolved by binding arbitration in accordance with the Colorado Uniform Arbitration Act, C.R.S. § 13-22-201, et seq., as then in effect by a single arbitrator. The arbitrator's award shall be entered as a judgment in the appropriate court in the county in which the Community is located. In the event of any inconsistency between such rules and these arbitration provisions, these provisions shall supersede such rules. All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceedings under this section. The parties shall be entitled to conduct discovery as if the dispute were pending in a District Court in the State of Colorado. In any arbitration proceeding subject to these provisions, the arbitrator is specifically empowered to allow discovery and decide pre-hearing motions that are substantially similar to pre-hearing motions to dismiss and motions for summary adjudication. Judgment upon the award rendered may be entered in any court having jurisdiction. Any arbitrator selected under this section shall be knowledgeable in the area of the subject matter of the Dispute and shall be selected by the parties to the Dispute, any court in which the Community is located or any private organization providing such services. In the event the parties to the Dispute cannot agree upon an arbitrator, they shall apply to the Chief Judge of the District Court where the Community is located for appointment of a qualified arbitrator.

(b) **Stenographic Record.** A stenographic record of the binding arbitration mandated by Section 19.12(a) shall be made, provided that the record shall remain confidential except as may be necessary for post-hearing motions and appeals. The arbitrator's decision shall contain findings of fact and conclusions of law to the extent applicable, and the arbitrator shall have the authority to rule on all post-hearing motions in the same manner as a trial judge. The statement of decision of the arbitrator upon all of the issues considered by the arbitrator is binding upon the parties, and upon filing of a statement of decision with the clerk of the court, or with the judge where there is no clerk, judgment may be entered thereon. The decision of the arbitrator shall be appealable as if rendered by a court. This provision shall in no way be construed to limit any valid cause of action which may be brought by any of the parties.

(c) **Procedure.** If any claim regarding defects in construction is made, each claim shall be specified with particularity. Each location of any claimed defect must be identified, and all evidence supporting each claim, along with all repair methodologies and costs of repair, must be provided in advance of any request for arbitration.

19.13 WAIVER OF TRIAL TO A JURY OR TRIAL TO A JUDGE. THE OWNERS HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY A JURY OR TO A JUDGE WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY THEM AGAINST DECLARANT OR THE METROPOLITAN DISTRICT OR THEIR SUCCESSORS WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS DECLARATION OR ANY DOCUMENT CONTEMPLATED HEREIN OR RELATED HERETO, OR ANY CLAIM ARISING OUT OF ALLEGATIONS OF DEFECTIVE CONSTRUCTION.

*[Signature page follows.]*

IN WITNESS WHEREOF, the undersigned, being Declarant herein, has executed this instrument dated this  
14 day of JUNE, 2006.

TRINIDAD OPERATIONS, INC.  
a Colorado corporation

By [Signature]  
M. Peter Schrepfer, President

STATE OF COLORADO

Said County of Denver ) ss.

Acknowledged before me this 14<sup>th</sup> day of June, 2006, by M. Peter Schrepfer  
as President of TRINIDAD OPERATIONS, INC., a Colorado corporation.

Witness my hand and official seal.

My commission expires: June 11, 2008



[Signature]  
Notary Public

ACKNOWLEDGMENT AND CONSENT

By execution below, Stone Ridge Metropolitan District No. 2 hereby acknowledges and assumes its rights,  
duties and obligations as provided herein.

STONE RIDGE METROPOLITAN  
DISTRICT NO. 2

By [Signature]

Print Name SAUL KANEMAN

Title Director

Attachments:

Consent(s) of Lender(s)  
Exhibit A - Legal Description of Annexed Property

CONSENT OF LENDER

As beneficiary of that certain Deed of Trust recorded on the 30<sup>th</sup> day of December, 2004, at Reception No. Book 10448, page 15 in the real estate records of Las Animas County, Colorado, STONE RIDGE, LLC, a Colorado limited liability company (the "Lender"), hereby consents to the recordation of the above Declaration; however, such Consent shall not be construed to waive, modify or amend any rights of the Lender or obligations of the borrower contained in the Deed of Trust, all terms and provisions of which shall remain in full force and effect.

Dated this 14<sup>th</sup> day of June, 20 06.

STONE RIDGE, LLC  
a Colorado limited liability company

By [Signature]  
L. Thomas Carlin, Manager

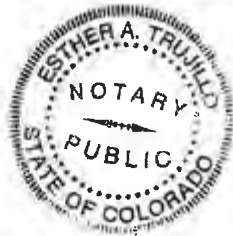
STATE OF COLORADO

Said County of Denton ) ss.

Acknowledged before me this 14<sup>th</sup> day of June, 20 06, by L. Thomas Carlin as Manager of STONE RIDGE, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: June 11, 2008



[Signature]  
Notary Public

CONSENT OF LENDER

Instrument Book Page  
200600688226 OR 1058 1772

As beneficiary of that certain Deed of Trust recorded on the \_\_\_\_\_ day of \_\_\_\_\_  
20\_\_\_\_, at Reception No. \_\_\_\_\_ in the real estate records of Las Animas County, Colorado,  
Horizon Banks, N.A. (the "Lender") consents to the recordation of the above Declaration;  
however, such Consent shall not be construed to waive, modify or amend any rights of the Lender or obligations of the  
borrower contained in the Deed of Trust, all terms and provisions of which shall remain in full force and effect.

Dated this 14<sup>th</sup> day of June, 2006.

Horizon Banks, N.A.  
(Name of Lender)

By [Signature]

Print Name Bere S. Neas

Title Branch President

STATE OF COLORADO

Said \_\_\_\_\_ County of Douglas ss.

Acknowledged before me this 14<sup>th</sup> day of June, 2006, by  
Bere S. Neas as Branch President of  
Horizon Banks, N.A.

Witness my hand and official seal.

My commission expires: June 11, 2008



[Signature]  
Notary Public

**EXHIBIT A  
TO  
MASTER DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
COUGAR CANYON**

Legal Description of the Annexed Property  
(consisting of this page only)

Phase 1A-67, Phase 1A-103, Phase 1B, Phase 1C and the Access Right of Way as stated in the Subdivision Map, Stone Ridge Addition to the City of Trinidad, County of Las Animas, State of Colorado recorded on December 22, 2004, Reception No. 200400677370, in Book 1044, Page 1158, Las Animas County, Colorado.