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 Bernard J. Gonzalez Las Animas County Recorder

DECLARATION OF PROTECTIVE COVENANTS FOR SUNRISE TRAILS

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

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

II. **PROPERTY OWNERS ASSOCIATION:** The *Sunrise Trails Property Owners Association* will be operated as per the Bylaws of the Association:

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

B. **Purpose:** The purpose of the Association is to use its authority, as given in the Bylaws:

- (1) To enforce these protective covenants.
- (2) To assess property owners annual assessments. Any unpaid assessment, charge, fee or other sums assessed against an Owner or his Parcel shall be a continuing lien, in favor of the Association upon the Parcel against which each such assessment, charge, fee or other sum is made.
- (3) To provide upkeep and improvements to all non-county roads in *the Property*.
- (4) To represent all property owners in matters of mutual interest.
- (5) To administer and lease grazing rights.

C. **Board of Directors:** The business and affairs of the Association shall be managed by its Board of Directors. The Board shall have the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of *the Property*. Such powers and duties of the Board shall include but shall not be limited to, the following, all of which shall be done for and on behalf of the Owners of the Parcels:

- (1) To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations and all other provisions set forth in the Declaration, the Bylaws of the Association and supplements and amendments thereto;
- (2) To establish, make and enforce compliance with such rules and regulations as may be necessary for the operation, use and occupancy of all of the Parcels with the right to amend the same from time to time. A copy of such rules and regulations shall be delivered or mailed to each Member upon the adoption thereof;
- (3) To incur such costs and expenses as may be necessary to keep in good order, condition and repair all of the areas in the Property required to be maintained by the Association;
- (4) To obtain and maintain all insurance required or permitted under the Declaration or otherwise deemed advisable by the Association;
- (5) To prepare a budget for the Association in the manner set forth in the Declaration to determine the amount of the expense assessments payable by the Owners to meet the expenses of the Property, and allocate and assess such expenses among the Owners as set forth in the Declaration and to adjust, decrease or increase the amount of the expense assessments and to levy and collect special assessments;
- (6) To collect delinquent assessments by suit or otherwise and to enjoin or seek damages from a Member as is provided in the Declaration and these Bylaws. The Board shall have the duty, rights, power and authority to suspend the voting rights of any Member in the event that any assessment made remains unpaid more than 30 days from the due date for payment of it. Such rights may also be suspended for a period not to exceed 60 days for infraction of published rules and regulations of the Association;
- (7) To borrow funds to pay for any expenditure or outlay required pursuant to the authority granted by the provisions of the Declaration and these Bylaws, and to execute all such instruments evidencing such indebtedness as the Board may deem necessary and, upon the written consent of the members entitled to vote, to give security therefor. Such indebtedness shall be the several obligations of all of the Members in the manner set forth in the Declaration. The Persons who shall be authorized to execute promissory notes and security instruments on behalf of the Association shall be the President or Vice President and Secretary or Assistant Secretary;
- (8) To enter into contracts to carry out their duties and powers and to hire and fire all personnel necessary for the ~~operation, maintenance, repair and replacement of the area~~ for which the Association is responsible under the Declaration;
- (9) To establish a bank account or accounts for the treasury and for all separate funds of the Association that are required or may be deemed advisable;
- (10) To make repairs, additions, alterations and improvements to the areas required to be maintained by the Association;
- (11) To keep and maintain full and accurate books and records showing all of the receipts, expenses or disbursements and to allow examination thereof at any reasonable time by each Member and First Mortgagees of Parcels, and to cause a certified public accountant to prepare a compilation or review financial statement of the books and records of the Association at the end of each fiscal year. At the option of the Board, an annual review or audited financial statement may be required;
- (12) To prepare and deliver annually to each Member the reports prepared under subsection (11) above;
- (13) To meet at least annually;
- (14) To supervise all officers, agents and employees of this Association, and to see that their duties are properly done;
- (15) As more fully provided in Section XXI, FEES AND ENFORCEMENT, to:
 - (a) Fix the amount of the annual expense assessment against each Parcel;
 - (b) Send written notice of each annual expense assessment to every Owner subject thereto in the manner and at the times set forth in the Declaration; and

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- (c) Foreclose the lien against any Parcel for which assessments are not paid within 90 days after the due date or bring an action at law against the Owner personally obligated to pay the same;
- (16) Subject to the provisions of the Declaration: to issue or to cause an appropriate officer to issue, upon demand by a person, a certificate setting forth whether any assessment has been paid; a reasonable charge may be made by the Board of Directors for the issuance of these certificates; if a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment to that person who relies thereon to his detriment;
- (17) To cause all officers and employees having fiscal responsibilities to be bonded, if and as it may deem appropriate;
- (18) Employ the services of a manager or managing agent, or both, and such independent contractors or other employees as they deem necessary, and delegate any of their duties to such persons; provided, however, when so delegated, the Board of Directors shall not be relieved of its responsibilities under the Declaration, the Articles of Incorporation or these By-Laws; and
- (19) In general, to carry on the administration of this Association and to do all of those things necessary and reasonable to carry out the governing and the operation of the Property.

D. **Control of Property Owners Association:** Notwithstanding anything else contained herein to the contrary, until all infrastructure and amenities are complete and/or as long as Developer owns in fee simple greater than twenty (20) percent of the property subject to the Covenants, including any subsequently annexed property, the Developer shall be entitled to appoint the majority of the Directors on the Board of Directors for the Property Owners Association entitled to be elected pursuant to the Bylaws, with the remaining Directors elected by the Owners.

III. **DWELLINGS:** No primary dwelling shall be built on the Property that is less than 1,000 square feet of living space. Any structure must be on permanent footing and foundation. No commercial activity shall be permitted unless approved by the Property Owners Association Board. Home office usage is permitted providing that such business does not increase traffic in or out of the subdivision. Modular homes will be allowed on the Property with the following specifications:

- The dwelling must be a minimum of 1,000 square feet of living space;
- The dwelling must be installed on an engineered permanent foundation;
- The dwelling must have a brick, wood or cosmetically equivalent exterior siding on all exterior walls.
- The dwelling must have a pitched roof.

IV. **MANUFACTURED HOMES:** Single wide manufactured homes shall not be permitted on any parcel within the Property.

V. **SET-BACKS:** No structure, fence or any other improvement may be erected within fifty (50) feet of the center-line of any road within the Property nor within twenty-five (25) feet of any side or rear line of any parcel unless approved by the Property Owners Association Board. Any property bordering the Picketwire Ditch, as depicted on the recorded plat, will be subject to an eighty (80) foot setback, (forty (40) feet on either side of the centerline of the Picketwire Ditch) for structures, fencing or any other improvement. Any property bordering a lateral ditch, as depicted on the recorded plat, will be subject to thirty (30) foot set-back (fifteen {15} feet on either side of the centerline of the lateral), for structures, fencing or any other improvement.

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

VII. **UTILITY EASEMENTS:** A twenty (20) foot utility easement is hereby set aside on each side of all side and common rear lot lines and a thirty (30) foot utility easement is hereby set aside on the interior side of all exterior lot lines. Utility easements may be used for recreational purposes including, but not limited to, hiking, biking and horseback riding.

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

IX. **ANIMALS:** Animals will be allowed on the Property for the personal use of parcel owners, including hobby farms. Commercial feed lots shall be prohibited from the Property. Animals (including dogs) must be contained within the set-back boundaries of an individual parcel.

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

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

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

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

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

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

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

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

XVIII. ANNEXATION: Developer may from time to time within ten years after the date of the recording of this Declaration of Protective Covenants for the Property annex property the Developer deems appropriate to the development by recording one or more annexation statements. Upon the recording of such Annexation Statement in the public records of Las Animas County, Colorado, all of the real property described in such Annexation Statement shall be deemed to be part of the development and subject to all of the terms and provisions of these Covenants.

XIX. PICKETWIRE DITCH: The Picketwire Ditch, as depicted on the Sunrise Trails Plat Map, runs through the Property, and is maintained by The Picketwire Ditch Company. Any trespass, alteration of, or diversion of water from the Picketwire Ditch, including the ditch itself, headgates or laterals is expressly prohibited.

XX. RECREATIONAL EASEMENT: All areas designated as an easement or a common area on the Plat map shall be for the benefit of the members of the Sunrise Trails Property Owners Association. Every member of the Association shall have a non-exclusive right and easement of enjoyment in and to the common areas, including without limitation, the right of ingress and egress to and from an owner's parcel, and such use shall be subject to the Association's right hereunder to enforce restrictions and promulgate and publish rules with respect thereto. No permanent structure shall be permitted of any nature on the recreational easement, except as otherwise agreed to by the Association.

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

Assessments for fees will commence upon conveyance at the date of closing. Whenever the obligation to pay fees arises after the start of the calendar year, the first year's fees will be prorated to the commencement date for the parcel involved. Fees shall be payable in advance in January of each year. Any assessments which are not paid when due shall be delinquent. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against such Owner's Parcel, and/or may suspend the delinquent Owner's right to vote. In the event a judgment is obtained, such judgment shall include late charges and interest on the assessment and reasonable attorneys' fees, together with the expenses and costs of the action. The Board may enforce such lien by filing with the Clerk and Recorder of Las Animas County a statement of lien with respect to the Parcel, setting forth the name of the Owner, the legal description of the Parcel and the Owner's interest therein, the name of the Association and the amount of delinquent assessments then owing. The lien statement shall be duly signed and acknowledged by an officer of the Association and notice thereof shall be mailed to the Owner of the Parcel, at the address of the Parcel or at such other address as the Association may have in its records for the Owner of the Parcel. Such a claim of lien shall also secure all assessments, charges, fees and sums which come due thereafter until the lien, together with all costs, attorney fees, charges and interest have been fully paid or otherwise satisfied. Thirty (30) days following the mailing of such notice, the Board may foreclose the statement of lien in the same manner as provided for in the foreclosure of mortgages under the statutes and laws of the State of Colorado. Except to the extent that the lien of the Association is subordinated to the lien of a First Mortgage on a parcel pursuant to these Covenants and except as subordinated by law to the lien or real property taxes, the lien of the Association shall be deemed to have a priority date as of the date of the recording of this Declaration and shall have priority over all other liens and encumbrances against a parcel.

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

IN WITNESS WHEREOF, Heidi L. Sinclair of Sunrise Trails, LLC, a Colorado Limited Liability Company subscribed her name this 19th day of October, 1998.

STATE OF COLORADO

JES.

COUNTY OF El Paso

The foregoing instrument was acknowledged before me this 19th day of October, 1998 by Heidi L. Sinclair, as Business Manager of Sunrise Trails, LLC, a Colorado Limited Liability Company.

Witness my official hand and seal.

My Commission Expires: 3/9/2002Address: 216 N. Spruce StreetColorado Springs CO 80905

SUNRISE TRAILS, LLC, A COLORADO-LIMITED LIABILITY COMPANY

By: Heidi L. Sinclair
Heidi L. Sinclair, Business Manager

Notary Public

THE STATE OF COLORADO HAS NOT PREPARED OR ISSUED THIS DOCUMENT
NOR HAS IT PASSED ON THE MERITS OF THE SUBDIVISION DESCRIBED HEREIN.

DEVELOPER'S DISCLOSURE

ROADS

Sunrise Trails is located approximately 10 miles North of Trinidad, Colorado. Access to Sunrise Trails is via Interstate 25. From I-25, take Exit 23 east approximately 5 miles on Hoehne Road which is open year round and maintained by the county. The main entrance to Sunrise Trails is on the right.

Legal access within Sunrise Trails is by easement as depicted on recorded plats over existing private roads, which are 18-20 feet in width (driving surface), 60-foot easement, and are covered with up to 3 inches of natural road surfacing material. These roads are open year round. Developer will be responsible for road maintenance, including snow removal, until 80% of the parcels are sold. The Property Owners Association will be responsible for road maintenance at that time.

ELECTRICITY/TELEPHONE

Electric service consists of alternating current, single-phase, 60 hertz, 120/240 volts, which are the standards required for residential installation. To obtain service contact San Isabel Electric located at 663 Enterprise Drive, Pueblo West, CO 81007, 719-547-2160.

Telephone service is provided through Qwest Communications located at 1005 17th Street, Denver, CO 80202, 800-244-1111.

SEWAGE DISPOSAL

The Las Animas County District Health Department requires a percolation test be run in the proposed leach field for a septic tank leach field system. The County Sanitarian is available to run the test. The cost of the test is \$150. The Buyer may elect to have a professional engineer run the test. The approximate cost of the septic tank and leach field system is \$2,500. If your parcel cannot pass the county percolation test, the cost for an alternative sewage treatment plan will be greater. The Las Animas County Health Department is located at 412 Benedicta Avenue, Trinidad, Colorado 81082, the person to contact is John Martinez at (719) 848-2213.

WATER

The Buyer is responsible for incurring the cost of obtaining a water well permit from the Colorado Division of Water Resources and for drilling the well and installing all equipment necessary to remove the water. The cost will be approximately \$18-\$20 per foot charged by local companies to drill the well shaft and install pumps and piping depending on the depth of the well. The Developer does not warrant the quantity or quality of the water or the probability of successfully finding water. The cost to have water delivered to your parcel is approximately \$30-\$40 per 1,000 gallons. For more information on water delivery, please contact Art Trujillo at 719-846-8420. The Colorado Division of Water Resources is located at 310 East Abrilando, Suite B, Pueblo, Colorado 81004, (719) 542-5368.

GAS

Propane gas is available from two sources: Ludvik Propane Gas Service, 326 Main, Walsenburg, Colorado 81089, (719) 738-1141, or Al's Gas Service, 34400 Highway 12, Jansen, Colorado 81082, (719) 846-6022.

ZONING

The property is zoned agricultural at this time. A copy of the Las Animas County Zoning Regulations is available at the Land Properties, Inc. sales office in Trinidad, Colorado.

BUILDING PERMIT

Las Animas County requires a building permit. The cost of the permit varies depending on the value of the building (\$2,001=\$63 + \$12.50 for each additional \$1,000; \$25,001=\$352 + \$9.00 for each additional \$1,000; \$50,001=\$560.00 + \$5.25 for each additional \$1,000; \$100,001=\$895.00 + \$5.00 for each additional \$1,000; \$500,001=\$2,855.00 + \$4.25 for each additional \$1,000) The permit may be obtained at the Las Animas County Courthouse, 200 E. 1st Street, Trinidad, Colorado 81082, (719) 846-4486. The person to contact is Mike Ossola.

PICKETWIRE DITCH

The Picketwire Ditch, as depicted on the Sunrise Trails Plat Map, runs through the Property, and is maintained by the Picketwire Ditch Company. Any trespass, alteration of, or diversion of water from the Picketwire Ditch, including the ditch itself, headgates or laterals is expressly prohibited.

PROPERTY OWNERS ASSOCIATION

A Property Owners Association has been formed by Seller for Sunrise Trails to help enforce the Protective Covenants, collect assessments, maintain non-county roads, and represent all owners in matters of mutual interest. Membership in the Association is mandatory. Assessments are \$265.00 per parcel per year and are the responsibility of Buyer. Developer does not pay assessments. Members of the Association, including the Developer, are entitled to one vote per parcel owned. Developer has no financial interest in, nor will it derive any income or profit from the Association. Developer has no right to borrow or authorize borrowing from said Association. The Developer will maintain control of the Association until 80% of the parcels are sold. The Developer will appoint a Board of Directors that will control and disburse the funds of the Association. Upon 80% of sell-out, a meeting of the members of the Association will be held to elect a new board of directors.