

AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
LOS AMIGOS RANCH PLANNED UNIT DEVELOPMENT,  
GARFIELD COUNTY, COLORADO

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RSTRICIONS FOR LOS AMIGOS RANCH PLANNED UNIT  
DEVELOPMENT, GARFIELD COUNTY, COLORADO (Declaration) IS MADE AND  
DECLARED THIS 30<sup>TH</sup> DAY OF NOVEMBER, 1990, BY LOS AMIGOS RANCH  
PARTNERSHIP, A COLORADO GENERAL PARTNERSHIP (Declarant).

- A) Declarant is the owner of certain real property situate in Garfield County, Colorado, described on Exhibit A attached hereto and incorporated herein, known as Los Amigos Ranch Planned Unit Development Subdivision II and referred to in this Declaration as the “properties.”
- B) Declarant has previously recorded that certain Master Declaration of Protective Covenants for the Residential Areas of Los Amigos Ranch Planned Unit Development on March 5, 1980 in Book 544, Page 733 of the Garfield County Clerk and Recorder’s records as Reception No. 302114, including all amendments and supplements thereafter (Master Declaration).
- C) Declarant desires to amend and restate the Master Declaration and to develop and improve the Properties and subject the same to the covenants, conditions and restrictions set forth below.

NOW, THEREFORE, DECLARANT HEREBY MAKES THE FOLLOWING  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS:

ARTICLE I  
DEFINITIONS

- 1.1. “Architectural Control Committee” shall mean and refer to the Architectural Control Committee referred to in Section 4.7 of this Declaration.
- 1.2. “Articles” shall mean and refer to the Articles of Incorporation of Los Amigos Ranch Homeowners Association, Inc. , a Colorado non-profit organization.
- 1.3. “Association” shall mean and refer to Los Amigos Ranch Homeowners Association, Inc., a Colorado non-profit organization.
- 1.4. “Board” shall mean and refer to the Board of Directors of the Association
- 1.5. “Buildings” shall mean and refer to that or those structures situate upon a Lot containing the Dwelling Unit(s) or living quarter(s) of the occupants, and shall exclude any secondary or detached buildings or structures such as storage buildings or improvements.
- 1.6. “Bylaws” shall mean and refer to the Bylaws of the Association.

- 1.7. "Common Area" shall mean and refer to all property, including any improvements thereto, but excluding lots, as shown or designated on the recorded Plat of the Properties, including area designated as "Open Space" that is conveyed to the Association.
- 1.8. "Declarant" shall mean and refer to Los Amigos Ranch Partnership, a Colorado general partnership, and its successors in interest to the rights, duties and obligations of Declarant pursuant to this Declaration (including supplemental or amended declarations), the Articles, or Bylaws.
- 1.9. "Declaration" shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions and Restrictions.
- 1.10. " Dwelling Unit" shall mean and refer to a Building, or space within a Building designed and intended for the occupancy of one family.
- 1.11. "Improvements" shall mean and refer to any and all buildings, parking areas and facilities, fences, retaining walls, gradings, media reception or transmission dishes and antenna plantings, tress, shrubs and other structures or landscaping of every type and kind situate on the Properties.
- 1.12. "Lot" shall mean and refer to that part of the Properties designated on a Plat for fee simple ownership by an Owner or Owners and shall, by definition, exclude common area.
- 1.13. "Member" shall mean and refer to a person or entity who is a member of the association.
- 1.14. "Mortgage" shall mean any document or instrument intended to create a secured interest in land, and shall include deeds of trust.
- 1.15. "Mortgagee" shall mean and refer to any person or entity who is holder or beneficiary of a Mortgage or Deed or Trust.
- 1.16. "Multi-Family Lot" shall mean and refer to any Lot shown upon a Plat for the use and occupancy by more than one family and shall include, but not be limited to, apartments, condominiums and town homes.
- 1.17. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- 1.18. "Properties" shall mean and refer to all of the real estate described on Exhibit A attached hereto and incorporated herein by this reference, and all other real estate annexed to the Properties pursuant to Article VI hereof.
- 1.19. "Plat" shall mean and refer to the official Plat or Plats of the Properties approved by the Board of County Commissioners of Garfield County appearing of record in the Garfield County Clerk and Recorder's office, including any amendments, supplements or annexations thereto.
- 1.20. "Rural Residential Lot" shall mean and refer to any Lot shown on a Plat as a rural residential Lot.
- 1.21. "Single-Family Lot" shall mean and refer to any Lot shown on a Plat as a residential single-family lot.
- 1.22. "Supplemental Declaration" shall mean and refer to any subsequent declaration of covenants, conditions and restrictions executed and recorded by

Declarant affecting the Properties, including any annexation thereto, pursuant to authority in this Declaration.

1.23. “Temporary Structures” shall mean and refer to any structure placed on a Lot that has not been approved by the Architectural Control Committee as a permanent Building or Improvement, including, without limitation, trailers, huts, shacks, sheds and tents, but excluding the use of recreational tents for reasonable periods of time.

## ARTICLE II GENERAL DECLARATION

- 2.1. Intent. By making this Declaration, Declarant specifically intends to enhance, perfect and preserve the value, desirability and attractiveness of the Properties as a planned unit development in a manner mutually beneficial to Declarant, the Owners, members of the Owner’s family, tenants, invitees, guests and others who own, use, occupy or enjoy the Properties.
- 2.2. Estate Subject to Declaration. By this Declaration, Declarant expressly intends and does hereby subject the Properties to the provisions of this Declaration. All easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant, running with the land and shall at all times insure to the benefit of and be binding upon any person or entity having at any time any interest or estate in the Properties, and their respective heirs, successors, representatives or assigns. Reference in any deed of conveyance, lease, mortgage, deed of trust, other evidence of obligation or any other instrument to the provisions of this Declaration shall be sufficient to create and reserve all of the easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges which are granted, created, reserved or declared herein as though fully and completely set forth in their entirety in any such document.
- 2.3. Supplemental Declaration. Declarant reserves the power to make and declare Supplemental Declarations applicable to any class of Lot (Single-Family lot, Multi-Family lot or Rural Residential lot), the Common Area, or any real estate which Declarant subsequently annexes pursuant to Article VI of this Declaration. A Supplemental Declaration may define and describe additional or different land classifications other than the land classifications set forth in this Declaration and may set forth additional or different covenants, conditions and restrictions applicable to the real estate subject to the Supplemental Declaration. In the event of a conflict or inconsistency between the Supplemental Declaration and this Declaration, or any previously recorded Supplemental Declarations, the terms of the Supplemental Declaration shall govern the real estate made subject thereto. In all cases where there are overlapping provisions, the more restrictive shall apply.
- 2.4. Owners’ Rights to Common Area. Subject to the limitations contained in this Declaration, each Owner shall have a non-exclusive right and easement with ingress and egress over, across and upon the Common Area for the purpose of using and enjoying the same, getting to and from his lot, parking area and public ways for pedestrian and vehicular traffic, which right and easement shall be appurtenant to, and pass with the

transfer of title to each Owner's lot. Any owner may delegate his right of enjoyment to the Common Area and facilities to the occupants of his lot, or guests or invitees. The Owner's non-exclusive right to the use of the Common Area shall be subject to the following:

- A. The covenants, conditions, restrictions, easements, reservations, rights-of-way, designations, classifications, and all other provisions contained in this Declaration or as are set forth in a Plat;
- B. The right of the Association to limit the number of guests or invitees of each Owner which may use any of the amenities on the Common Area; and
- C. The right of the Association to adopt, from time to time, rules and regulations regarding the use of the Common Area and any facilities located thereon as the Association may determine is necessary or prudent.

ARTICLE III  
RESTRICTIONS ON USE

3.1. Building Restrictions.

- A. No Building, Improvement, or Temporary Structure shall be erected, constructed, installed, placed or permitted on any Lot or the Common Area except for purposes and uses consistent with the terms of this Declaration, any Supplemental Declarations, the Plat, and the Articles and Bylaws of the Association and any rules and regulations established by the Association or the Architectural Control Committee. No Building, Improvement, or Temporary Structure shall be erected, constructed, installed, placed or permitted on any Lot without first obtaining the approval of the Architectural Control Committee pursuant to Section 4.7 of this Declaration.
- B. Only new construction shall be permitted within the Properties such that no Building or Improvement shall be moved upon the Properties. Further, no Temporary Structure of any type whatsoever shall be used at any time as a residence, either temporary or permanent. No mobile homes, trailer homes or other moveable structures shall be permitted on the Properties as dwellings. Temporary Structures may be allowed on the Properties for the purpose of conducting construction activities .
- C. No Building or other Improvement shall be erected, constructed, placed or permitted upon any Lot or the Common Area except of a design, size and configuration approved by the Architectural Control Committee, located within the designated building envelope observing all setbacks, and not encroaching upon any dedicated or established easement or right-of-way, according to the Plat, this Declaration, any Supplemental Declaration, the Articles and Bylaws of the Association or applicable governmental authority.

3.2. Preservation of Appearance.

It is the specific and underlying intent of Declarant to preserve and protect the visual appearance and natural attractiveness of the Properties. Accordingly, no Building or Improvement upon the Properties shall be removed, changed, replaced or modified, whether by repair, maintenance or restoration, in such a manner so as to alter such Building or Improvement's visual appearance as approved by the Architectural Control Committee without first obtaining approval of the Architectural Control Committee. By way of

example, unless Architectural Control Committee approval is obtained, no exterior color shall be changed, no Building, Improvement or landscaping shall be moved or removed, and no land contour or drainage shall be altered.

3.3. Maintenance of Lots, Improvements and Common Area.

- A. The Owners shall keep, maintain and repair the Buildings and other Improvements on their lots in an attractive and well maintained condition, free from visual deterioration. In the event the Owners fail to maintain or repair the Buildings or other Improvements on their Lots in accordance herewith, the Association, upon fourteen (14) days' notice, may conduct such maintenance and repairs and assess the cost thereof to the Owner on whose Lot such maintenance or repairs were conducted as a reimbursement assessment pursuant to Section 5.4.
- B. The Owners shall neither do any act or suffer any action by their family members, tenants, guests or invitees which shall cause damage or deterioration to the land or Improvements upon any Lot or the Common Area.
- C. No Owner's garbage, rubbish or trash shall be allowed to accumulate on any Lot or the Common Area. Trash containers shall be of a type and design acceptable to the Architectural Control Committee, and shall be located on each Lot in a place acceptable to the Architectural Control Committee.

3.4. Commercial Activities.

The Lots, Buildings, Improvements, and the Common Area may not be used for commercial purposes of any type whatsoever excepting for home occupations. For purposes of this Section, "home occupations" shall mean an occupation by the resident conducted totally within the residential building which does not entail the employment of third persons on the premises and does not entail the delivery of goods or services to customers upon the premises. For example, but not by limitation, an insurance agent may use his residence as a personal office so long as customers are not permitted to come to the residence; however, the establishment of a barber shop or a beauty shop would be prohibited. This restriction shall not apply to businesses or commercial activities occurring on those portions of Los Amigos Ranch Planned Unit Development Zoning District Map designated therefore, nor shall this restriction limit Declarant in the marketing of the Properties, including the use of sales offices, model homes or temporary construction offices.

3.5. Offensive Activities.

No noxious or offensive activity of any type whatsoever shall be carried on within or upon any Lot or the Common Area that shall become an annoyance or nuisance to the occupants of other Buildings. Owners, tenants, occupants or their guests shall exercise reasonable care to avoid making or permitting to be made loud, disturbing or objectionable noises, and in using or playing or permitting to be used or played musical instruments, radios, phonographs, television sets, amplifiers and any other instruments or devices in such a manner as may disturb or tend to disturb Owners, tenants or occupants of other buildings.

3.6. Hazardous Activities.

No activities shall be conducted on the Properties which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearm shall be discharged upon any of the Properties and, no open fire shall be lighted or permitted on any

of the Properties except in a contained barbeque unit, a safe and well-designed interior fireplace, campfires or picnic fires in portions of the Common Area designated for such use by Declarant or the Association or such controlled and attended fires required for clearing or maintenance of land, as approved the Architectural Control Committee. No explosive may be discharged on the Properties except in connection with construction activities as specifically approved by the Architectural Control Committee. No flammable, toxic or hazardous materials shall be allowed on any Lot, except of the kind and in the amount customarily incident to residential maintenance. Operation of snowmobiles, off-road vehicles, motorcycles, or any other motor vehicles anywhere other than on designated driveways or roads in a legal manner is prohibited except to the extent allowed by rules and regulations promulgated by the Association.

- 3.7. No unsightliness. No unsightliness shall be permitted on the Properties. Without limiting the generality of the foregoing:
- a) All unsightly structures, facilities, equipment, objects and conditions shall be enclosed within a structure approved by the Architectural Control Committee (hereinafter “approved structure”) or appropriately screened from the view of other Lot occupants and traffic on public or common streets (hereinafter “screened from view”);
  - b) Trailers, mobile homes, trucks other than pickups, heavy equipment, boats, tractors, campers not on a truck, unlicensed cars or trucks, snow cats, skidoos, snow removal equipment and garden or maintenance equipment shall be kept at all times, except when in actual use, in an approved structure or screened from view;
  - c) Trash cans, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an approved structure or screened from view;
  - d) vehicular repairs, service areas, storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view;
  - e) pipes for water, gas, sewer, drainage or other purposes and wires, poles, antenna and other facilities for the transmission or reception of audio or visual signals or electricity, and utility meters or other utility facilities and individual sewage disposal systems or devices shall be kept and maintained within an approved structure, below the surface of the ground, or screened from view; and
  - f) no lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials, scrap, refuse, or trash shall be kept, stored or allowed to accumulate on any Lot.
- Notwithstanding the foregoing, if at the time of the occupancy of any Building, connections to a nearby underground electricity line or telephone line are not available, then temporary poles or wires for electricity or telephone service may be installed to a reasonably necessary height provided that they shall be promptly removed at the expense of the Owner after the availability of connections to nearby underground lines or cables.

3.8. Restrictions on Animals. Pets shall be permitted, provided they are limited to a reasonable number; are kept, bred or raised solely as household pets for private use and not for commercial purposes; are not permitted on the Common Area unaccompanied; and pet droppings are not left on the Common Area. Any pet which shall be a nuisance or annoyance to any Owner or wildlife shall be prohibited. The Board shall determine whether the number of pets are reasonable or whether any animal or pet shall be a nuisance to any other owner or wildlife. In such event, the Board may require any pet owner to control such pet in a manner so as not to be a nuisance, or require the removal of such pet from the Properties. Horses may be kept or used on such portions of the Common Area, roads or other public rights-of-way or easements as may be designated for such use by Declarant or the Association. The Association may by rule or regulation limit the number of horses to a reasonable number as to any Rural Residential Lot or as to any facilities designated for the keeping of horses. Further, the Association or Declarant may set aside, reserve or designate facilities for the keeping of horses on any part of the Properties, including the Common Area, such as corrals or paddocks, or other facilities. Horses may not be kept on any Single-Family or Multi-Family Lot.

3.9. Parking.

- A) The Buildings and Improvements on Lots shall be constructed so as to provide sufficient off-street garaged parking to accommodate not less than two (2) vehicles per Dwelling Unit. All driveways shall be composed of asphalt, concrete or other suitable surface as approved by the Architectural Control Committee.
- B) Declarant, and the Association with the approval of Declarant, reserve the right to specifically designate portions of the Common Area, or other portions of the Properties, for the parking of recreational vehicles. In such event, all recreational vehicles shall be restricted to areas designated for parking and storage. In the absence of such designation, the Architectural Control Committee may impose restrictions on the location of recreational vehicles upon any Lot as well as aesthetic screening therefore.
- C) No Owner, occupant, tenant, guest or invitee shall block, hinder or impede the free flow of vehicular and pedestrian traffic upon public or common roads or in or about the Common Area, including, but not limited to, public rights-of-way or easements. No Owner shall keep or store any vehicles on the Common Area or public or common roads, except as specifically designated pursuant to Paragraph 3.9.B.
- D) The Association may enforce parking restrictions provided in this Declaration by the removal of any Owner's, Owner's family members, tenant's, guest's or invitee's vehicle, including recreational vehicles, or personal property parked or stored in violation hereof, including the imposition of a

fine for such violation. Each Owner shall be personally liable and responsible for any fine imposed by the Association and the cost for the removal of any vehicle or personal property parked or stored in violation hereof by such Owner's family members, tenants, guests or invitees.

- 3.10. Landscaping. No Owner, including such Owner's family members, tenants, guests and invitees, shall remove, alter, injure or interfere in any way whatsoever with any tree, shrub or other landscaping or Improvement, whether occurring naturally or placed upon the Properties, except upon approval of the Architectural Control Committee. The preservation and utilization of natural vegetation in the landscaping of Lots is encouraged.
- 3.11. Signs. No signs of any type shall be displayed in public view on any Lot except such notification, directory or advisory signs as may be required by legal proceedings or one 1) sign of not more than six (6) square feet advertising such Lot for sale, resale or rent. In all instances, signs shall be subject to the approval of the Architectural Control Committee.
- 3.12. Fences. No fences (including plantings such as hedges or trees which would be in the nature of a fence) shall be placed on the Properties except for such fences as may be installed by Declarant, the Association or with approval of the Architectural Control Committee. Fences on Lots shall be confined to the building envelope and shall not define boundary lines. All fences not immediately adjacent to Buildings shall be limited to a height of forty-two (42) inches to allow deer passage.
- 3.13. Subdivision/Split of Lots. No Lot shall be physically divided, subdivided, partitioned, or split in two (2) or more parcels, nor shall a fractional portion thereof be sold or conveyed provided, however, Multi-Family Lots may be divided into separate ownership estates such as town homes or condominiums, and thereafter sold and conveyed as such, provided approval therefore is first obtained from Garfield County Board of County Commissioners and the Architectural Control Committee.
- 3.14. Combining Parcels. Two (2) or more Lots may be combined and developed as a single parcel so long as approval thereof is first obtained from applicable governmental authority and the Architectural Control Committee, which approval may be conditioned upon the Owner who seeks to combine such Lots providing to the Architectural Control Committee a surveyed map or plat of the combined Lots showing the location of all easements, rights-of-way, setback lines and building envelopes in addition to any other information the Architectural Control Committee may require. The combining of parcels shall not relieve the Owner thereof from the payment of tap fees with respect to all Lots so combined. Once combined, Lots cannot subsequently be re-subdivided or divided without approval of applicable governmental authority and the Architectural Control Committee.
- 3.15. Individual Septic Systems. Individual septic systems shall only be allowed in areas not served by central sewage collection, and only after approval by the Architectural Control Committee and any governmental authority having jurisdiction thereover.



- 3.16. Irrigation Restrictions. Single-Family and Multi-Family Lots shall not irrigate more than 6500 square feet of land.
- 3.17. Lighting. No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare. All exterior lights and light standards and the orientation thereof shall be approved by the Architectural Control Committee. No type of high intensity discharge lights shall be permitted on any Lot.
- 3.18. Restrictions on Tanks. No elevated tanks of any kind shall be erected, placed or permitted on any Lot or Common Area, except upon approval by the Architectural Control Committee. All tanks utilized for storage of any material shall be buried, or if located above ground, shall be enclosed within an approved structure or screened from view as determined by the Architectural Control Committee.
- 3.19. General Restrictions Applicable to Lot Classifications .
- A) Single-Family Lots. Each Single-Family Lot shall be used exclusively for residential living purposes and such purposes as are customarily incident thereto. Unless allowed by the Plat or Supplemental Declaration, no Single-Family Lot shall have any Building or other Improvement constructed thereon to accommodate any more than one (1) family, together with its severants and occasional guests, and to accommodate such other activities as are customarily incident to a single-family residence. Although guest or servant facilities or quarters may be permitted on a Single-Family Lot, they shall not be detached from the Building on the Lot, and in no event shall they exceed 500 square feet in size inclusive of kitchen and bath functions. All Improvements that are detached or separated from the Building shall be constructed in a compact area adjacent to the Building. The Building shall have a minimum size of 1,200 square feet, exclusive of garages, porches and patios. No Building or other Improvement shall exceed in height that maximum height designated on the Los Amigos Ranch Planned Unit Development Zoning District Map, or as may be further restricted by Supplemental Declaration. All above-ground Buildings and Improvements, except landscaping and necessary crossings for access driveways, bridges or paths, shall be contained within the boundaries of the building envelope designated for such Lot. All Single-Family Lots shall be required to connect to the central water system servicing the Properties at such time as central water system facilities are available for connection, and all water service for Single-Family Lots shall be provided from the central water system. No private wells will be permitted on Single-Family Lots. Individual septic systems shall only be permitted on Single-Family Lots not serviced by a central sewer system and they shall comply with the Association's rules and regulations and applicable government regulations.
- B) Rural Residential Lot. Rural Residential Lots shall be subject to such additional or different covenants, conditions and restrictions as are set forth in Supplemental Declarations.
- C) Multi-Family Lots. Multi-Family Lots shall be used exclusively for residential living purposes and such purposes as are customarily incident thereto. Unless otherwise specified on Plat, or in a Supplemental Declaration, no

Multi-Family Lot may be improved with Buildings containing more than the number of Dwelling Units described for such Lot by the Plat or in a Supplemental Declaration. Each Dwelling Unit within the Building (s) shall be designed to accommodate no more than one (1) family and its servants and occasional guests. No structures or above-ground Improvements shall be permitted on any Multi-Family Lot which are detached or separated from the Building (s) containing Dwelling Units unless located within a reasonably compact area adjacent to the Building (s) and unless designed as a single visual element, connected or related visually with the Building (s) by approved architectural features. Each Dwelling Unit within a Building shall have a minimum floor area, exclusive of garages, porches, patios and accessory structures, as specified on the Plat or in a Supplemental Declaration. No Building or Improvement on a Multi-Family Lot shall exceed the maximum height specified in the Los Amigos Ranch Planned Unit Development Zoning District Map, or as may be further restricted by Supplemental Declaration. All above-ground Improvements, except landscaping and necessary crossings for access driveways, bridges or paths, shall be contained within the boundaries of the building envelope designated for such Lot. All Multi-Family Lots shall be required to connect to the central water system servicing the Properties. No private well or sewage disposal system will be permitted on Multi-Family Lots.

D) Common Area. The Common Area shall be kept exclusively as a scenic and as a natural forested or natural open area, except as may be stated or provided in the Plat or Supplemental Declaration affecting the Common Area, provided, however, either Declarant or the Association may improve the Common Area for recreational or leisure activities for the benefit of the Owners, their family members and guests and invitees, or for the purpose of installing below-surface utilities reasonable or necessary to provide or improve access or service to the Properties or to other property in the Los Amigos Ranch Planned Unit Development. As is more fully set forth in Article IV hereof, the Association shall have the authority to limit or restrict the use of any or all portions of the Common Area to certain uses, certain persons and classes of persons and to prescribe rules and regulations with respect thereto and to charge fees in connection with the use thereof.

3.20. Miscellaneous.

- A) No Lot shall be used in any manner whatsoever to explore for or to remove any water, oil, gas or other hydrocarbons or minerals of any type whatsoever, including, but not limited to, gravel, coal, earth, earth substances or radioactive or fissionable materials.
- B) No Owner shall alter, change or relocate any facility for permanent utility service without the prior written consent of the applicable governmental authority or utility company and the Architectural Control Committee.
- C) No dish or antenna for transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained out of doors, except as shall be permitted by the Architectural Control Committee.

- 3.21 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the construction or maintenance by Declarant, or its duly authorized agent, of any Improvement, structure or sign necessary or convenient to the construction of Buildings and Improvements upon the Properties or other property in the Los Amigos Ranch Planned Unit Development or the sale, promotion, operation or disposition of the Lots or Improvements situate within the Properties or other property in Los Amigos Ranch Planned Unit Development. Without limitation on the foregoing, nothing contained in this Declaration shall limit the right of Declarant to complete construction of Buildings and other Improvements in the additional phases or stages of development of the Los Amigos Ranch Planned Unit Development undertaken by Declarant. Declarant shall further be exempt from any restrictions set forth in this Declaration limiting the right to storage and handling of the materials, supplies and equipment; the operation of construction vehicles, equipment and machinery; the employment of construction personnel; or the erection, keeping and maintaining of such structures, displays, signage or other Improvements that Declarant deems to be reasonable or necessary to the process of development, including the completion of construction and disposition of completed Lots and Buildings by sale, lease or otherwise. During the course of any construction undertaken by Declarant, Declarant shall have the right of reasonable easements for the ingress and egress of all machinery, equipment and personnel and for the storage and handling of the materials, supplies and equipment, which right of ingress and egress shall extend to utility companies.

#### ARTICLE IV THE ASSOCIATION

- 4.1. General Purpose. The Association shall be a non-profit corporation organized under the laws of the State of Colorado. The Association is organized for the purpose of being and constituting the entity for the furtherance of the mutual interests of the Owners of the Properties including the exercise of all rights and privileges and the performance of all duties and obligations express or implied in this Declaration, Supplemental Declarations, the Articles and Bylaws. The Association shall be governed by its Board, which shall exercise the rights and powers as set forth in the Association's Articles and Bylaws.
- 4.2. Membership. By accepting a deed to a Lot, each Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separate from ownership of any Lot. Membership in the Association shall automatically transfer along with the transfer of title to any Lot.
- 4.3. Voting Rights. The Association shall have two (2) classes of voting membership. Class A members shall be all Owners, excluding Declarant, who shall be entitled to one (1) vote for each Lot owned, except for Multi-Family Lots which shall have three (3) votes for each Lot owned. Class B membership shall be held solely and exclusively by Declarant, which shall be entitled to three (3) votes for each Single-Family and Rural Residential Lot and nine (9) votes for each Multi-Family Lot either owned or planned for

development within Los Amigos Ranch Planned Unit Development, specifically including those Lots planned for property described in Exhibits A and B attached hereto, but excluding that part of the Los Amigos Ranch Planned Unit Development known as Subdivision I. Class B membership shall cease and be converted to Class A membership whenever the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership. When more than one (1) person or entity holds an interest in any Lot, all persons and entities shall be Members, provided that in no event shall the number of votes cast by the Members exceed the number of votes allocated per Lot previously set forth. Declarant may cast all class B votes held by it, irrespective as to whether or not Lots subject to class B membership have been finally platted or not.

4.4. Delegation of Duties. The rights, privileges, obligations and duties of the Association may be transferred, assigned, delegated, or contracted to any person or entity, including the engaging of services of a professional manager or managing agent, provided:

- A. No transfer, assignment, delegation or contractual arrangement shall modify the rights and privileges or relieve the Association from the obligations and duties set forth in this Declaration;
- B. No transfer, assignment or delegation shall revoke or change any of the rights or obligations of the Owners as are set forth in this Declaration; and
- C. Any agreement for professional management or any other contract providing for other services of the Association shall be in writing, not exceed three (3) years, and provide for the termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice

4.5. Limitation Upon Liability.

A. Indemnification of Officers and Directors. Neither the Association, any member of the Board, any officer of the Association nor any agent or employee of the Association, shall be liable to any Owner or other person or entity for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without willful or intentional misconduct. The Association shall indemnify and hold harmless any member of the Board, any officer of the Association or any agent or employee of the Association from any and all reasonable costs, damages, charges, liabilities, obligations, fines, penalties, claims, demands, or judgments and any and all expenses, including, without limitation, attorneys fees, incurred in the defense or settlement of any action arising out of or claimed on account of any act, omission, error or negligence of such person or of the Association, the Board, or any committee of the Association, provided that such person has acted in good faith and without willful or intentional misconduct.

B. Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Properties, the Association shall not be liable for injury or damage, other than the normal costs of the maintenance and repair, caused by any latent condition of the

Properties or by the conduct of other Owners or persons or by casualties for which insurance pursuant to this Declaration is not required, or for which insurance is not provided by the Association.

- 4.6. Insurance. The Association shall be required and empowered to obtain and maintain the following insurance so far as such insurance coverage is obtainable:
- A. Insurance for the Common Area and all personal property owned by the Association providing coverage against loss or damage by irrigation, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, water damage, fire and all other casualty as covered under standard coverage provisions for the full insurable replacement cost of the damaged property. Insurance coverage shall also include protection for electrical pumps and associated electrical wiring used to service and maintain any irrigation systems.
  - B. Comprehensive public liability insurance in a minimum amount of \$1,000,000 bodily injury per occurrence, \$500,000 for each accident, and statutory workmen's compensation coverage upon employees.
  - C. Such other insurance as the Association considers prudent.
- 4.6. Architectural Control Committee.
- A. The Architectural Control Committee shall consist of three (3) persons to be appointed by the majority of the Board. The method and manner of the Architectural Control Committee's appointment, replacement and removal, as well as method of operation, to the extent not provided herein, shall be as set forth in the Articles and Bylaws of the Association.
  - B. No Building, Improvement or Temporary Structure shall be installed, erected, constructed, placed or permitted or altered within the Properties except upon the prior written consent and approval of the Architectural Control Committee.
  - C. To secure approval of the Architectural Control Committee, an application for approval shall be submitted to the Architectural Control Committee for its review and final approval, such application to include reasonable fees as are established from time to time by the Architectural Control Committee to defray the cost of its review and duplicate copies of plans and specifications relating to any Building or Improvement. Plans and specifications shall contain, without limitation, the plot plans and sectional plans showing layout, including flow and manner of surface drainage, finish and natural grade elevations; floor plans showing overall dimensions; roof plans showing pitch, roof materials, and color; exterior elevations showing doors, windows and exterior materials and colors; a perspective sketch if requested; and other details requested by the Architectural Control Committee to explain any feature or component of the Building or Improvement. Staked corners for the proposed Building, Improvement, Temporary Structure or excavation and an on-site inspection may be required by the Architectural Control Committee. Applications for

Temporary Structures shall specify the size, color, design, purpose and time of existence.

- D. The Architectural Control Committee shall consider the aesthetic and functional design of any Building or Improvement as to the quality of workmanship and materials, harmony of exterior design with design with existing Buildings or Improvements, location with respect to topography and finished grade elevation, and the preservation and enhancement of the value and the visual appearance of existing Buildings or Improvements. The Architectural Control Committee shall be empowered to develop, promulgate, establish, amend and enforce aesthetic and functional design criteria, guidelines or standards and procedures for approval. Without limitation on the foregoing, reflective surfaces and bright colors shall be discouraged.
- E. The Architectural Control Committee shall approve or disapprove all written plans within sixty (60) days after submission. In the event the Architectural Control Committee fails to take any action within such sixty (60) day period, the proposed Building or Improvement shall be deemed approved. The majority of vote of the Architectural Control Committee shall be required for the approval or disapproval of any proposed Building or Improvement.
- F. The Architectural Control Committee shall not be liable for damage to any person submitting requests for approval or to any Owner within the Property by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such request. The actions of the Architectural Control Committee shall be deemed conclusively binding upon the Owners. In any dispute between the Architectural Control Committee and any Lot Owner, the prevailing party shall be entitled to reasonable attorneys' fees and costs.
- G. In the event any repair, modification, new construction or installation of any Building or other Improvement, for which the Architectural Control Committee has given its approval, is not commenced within one (1) year from the date of such approval, then such approval shall be deemed to have been not given in the first instance unless the Architectural Control Committee extends such one – year period of time for such additional period or periods as the Architectural Control Committee deems reasonable under the circumstances, but in no event for any period of time exceeding two (2) years from the date approval is first given. Once commenced, any repair, modification, new construction or installation with respect to any Building or other Improvement must be diligently prosecuted until substantial completion.
- H. The Architectural Control Committee shall be entitled to require construction deposits both to assure construction is completed in compliance with the approval given and to assure against damage to public roads and rights-of-way Common Area. The Architectural

Control Committee, at its discretion, may cause the restoration and repair of public roads and rights-of-way or Common Area, clean-up of the construction site, effect dust control measures, or remove or modify unauthorized construction and deduct the costs for said work from the construction deposit. The Association may charge any cost deficiency to the Owner.

- 4.8. Additional Rights and Duties of the Association. In addition to any other right, privilege, duty or obligation set forth in this Declaration, Supplemental Declarations, Articles or Bylaws, the Association shall have, without limitation upon any other express or implied powers, the following additional rights and duties:

A) Enforcement of Declaration. Without being obligated to do so, the Association may enforce any term, provision, duty, obligation, covenant, condition or restriction set forth in this Declaration against any Owner or Member. In any enforcement action by the Association against any Owner or Member, the prevailing party shall be entitled to all costs associated with said enforcement action, including reasonable attorneys' fees.

B) Common Area Maintenance. The Association shall maintain the Common Area, together with all Improvements and landscaping situate thereon, in a neat, clean and well-maintained condition. Such maintenance shall include easements, rights-of-way, methods of ingress and egress, utilities, roads, walks and drives. By approval of the Members, the Association may undertake capital improvements with respect to the Common Area.

C) Road and Easement Maintenance. To the extent not provided by applicable governmental authority, the Association may provide for the care, operation, management, maintenance, repair and replacement of any or all public and private roads. In addition, the Association may maintain all easements and rights-of-way situate upon the Properties, including vehicular, pedestrian, equestrian and utility easements and rights-of-way. Maintenance may include removal of snow or other debris.

D) Provision of Utility Services. To the extent not otherwise provided by public or private utilities or special districts, the Association may provide for garbage and trash removal and utility services to the Lots and the Common Area, including, but not limited to, irrigation and potable water, and sewer or septic service. The Association may obligate itself to pay a reasonable share of the costs and expenses of any system benefiting the Properties in the nature of any area-wide television booster, translator or cable system.

E) Rule-Making and Violator Sanctions. The Association shall have the power to adopt and enforce rules and regulations pertaining to any and all real and personal property and other facilities of the Association, specifically including the Common Area, to assure the fullest enjoyment and use by the persons authorized to enjoy and use the same. The Association may provide for sanctions for the violation of such rules and regulations by fines and penalties, including the expulsion or exclusion of

violators from the enjoyment of all real and personal property and facilities of the Association and the Common Area. The Association further may impose user fees for the use of the Common Area or real or personal property or other facilities of the Association, provided such user fees are uniformly applied for the purpose of defraying or offsetting costs and expenses of the Association attributable to such uses.

F) Governmental Successor. Any property or facility owned or held by the Association and any function or activity required to be performed by the Association under this Declaration may be transferred to any governmental authority which is willing to accept and assume such obligations on such terms and conditions as the Association shall deem to be in the best interests of the Owners and with written consent of Declarant.

G) Indemnification of Declarant. With respect to real or personal property granted or leased to the Association by Declarant, the Association shall indemnify and hold Declarant harmless from any and all losses, liabilities or claims arising from or in connection with the improvement, operation, maintenance or use thereof by the Association or any person or entity authorized to use the same.

4.9. Amplification. The Association may exercise any and all other rights and privileges given to it by this Declaration, by its Articles or bylaws, or as may otherwise be given to it by law, whether express or implied, reasonable or necessary to carry out its purposes as are set forth in this Declaration and under the Articles and Bylaws. However, the Association shall not be entitled to:

- A) Change the obligation of any owner for paying assessments or charges hereunder;
- B) Physically partition or subdivide any Lot; or
- C) Partition, subdivide, encumber, sell or transfer the Common Area, except for the granting of easements for public utilities or other public purposes consistent with the intent and purpose of this Declarant.

4.10 Property Furnished by Declarant to Association.

- A) Sale or Abandonment. No real property or interest in real property conveyed by Declarant to the Association may be sold, conveyed, leased, transferred, abandoned or disposed of by the Association without the consent of Declarant, nor shall any Improvements on real property granted or conveyed to the Association by Declarant be destroyed, permitted to deteriorate, waste or be disposed of by the Association without the consent of Declarant.
- B) Designation of Easements. As to any real property or interest in real property conveyed or provided to the Association by Declarant, Declarant reserves the right to create or impose easements for utilities (including gas, electricity, water, sewer, telephone, television and intercommunication, alarm or other



system), drainage, public or private equestrian, or hiking trails, and for ingress and egress and access.

- C) Commercial Enterprises. Except for isolated and occasional commercial activities normally classified as organized civic events, charitable benefits or fund raisers, no commercial enterprise or activity shall be conducted upon any real property or interest in real property, including Improvements thereon, granted, conveyed or furnished by Declarant to the Association.

## ARTICLE V ASSESSMENTS

- 5.1. Owner's Obligation. By accepting a deed to any Lot, each Owner agrees to pay to the Association all the assessments, to be fixed and levied from time to time as provided in this Declaration, the Articles and Bylaws. Such assessments, together with interest accruing thereon and the costs of collection in the event of a delinquency of payment, shall be the personal joint and several obligation of each person or entity who is the Owner thereof at the time the assessment was made. Non-use by an Owner of a Lot or Common Area shall not relieve the Owner of obligations to the Association.
- 5.2. Regular Assessments. Within thirty (30) days following the commencement of each fiscal year of the Association, the board shall estimate the costs and expenses to be incurred by the Association during such fiscal year in performing its functions pursuant to this Declaration, the Articles and Bylaws (including a reasonable provision for contingencies and replacements), and shall subtract from such estimate an amount equal to the anticipated balance (exclusive of any reserves) in the operating fund at the start of such fiscal year which is attributable to the operation and maintenance assessments for the prior fiscal year. The estimate so determined shall be assessed to the Class A and B members as a regular assessment by dividing the total estimate by the total number of Class A and B membership votes which are allocated to land within the Properties which has been finally platted, and assessing the resulting per vote amount to such Class A and B members, provided, however, Class B memberships shall be assessed at one-third (1/3) of the rate of Class A memberships and in no event shall the assessments against Class B memberships exceed fifty percent (50%) of the total assessments against Class A and Class B memberships. Regular assessments shall be paid in twelve (12) equal monthly installments, due on or before the 10<sup>th</sup> day of each month, payments to commence with the first month of the fiscal year. Assessments shall accrue interest at eighteen percent (18%) per annum, compounded annually, from and after the due date thereof.
- 5.3. Special Assessments. If, at any time during the fiscal year, the regular assessment proves inadequate for any reason, including non-payment of any Owner's share thereof, the Board may levy a further assessment in the amount of such actual or estimated inadequacy. The special assessment shall be assessed to the Class A and B memberships applicable to Lots owned within the

Properties that have been finally platted by dividing the total estimate by the total number of Class A and B membership votes applicable to finally platted Lots and assessing the resulting per vote amount to the Owners, provided, however, Class B memberships shall be assessed at one-third (1/3) the rate of Class A memberships, and in no event shall the assessment against Class B memberships exceed fifty percent (50%) of the total assessments against Class A and Class B memberships, such assessment to be paid either in equal monthly installments over the balance of the remaining fiscal year, or in a lump sum billing, as the Board shall determine. Special assessments shall accrue interest at eighteen percent (18%) per annum, compounded annually, from and after their due date.

- 5.4. Reimbursement Assessment. The Board may levy a reimbursement assessment against any owner as a result of such Owner's, or such Owner's tenant's, guest's, or occupant's, failure to maintain their Lot and any Building or Improvement thereon, for damage to roads, walkways, easements, other public rights-of-way, or to the Common Area and Improvements thereon exceeding ordinary wear and tear, and for cost deficiencies associated with construction remediation as set forth in Paragraph 4.7.H. herein, regardless of whether such damage was caused by the willful or negligent act or omission of such Owner, or Owner's tenant, guest or occupant. Such assessment shall be for the purpose of reimbursing the Association for its actual costs and expenses incurred for the repair, maintenance or restoration of such damage, and shall be due and payable to the Association when levied. Reimbursement assessments shall accrue interest at eighteen percent (18%) per annum, compounded annually, from and fo their due date.
- 5.5. Enforcement. In the event any assessment is not paid when due, the Association may enforce payment of such obligation by any or all of the following remedies:
- A) The Association may elect to accelerate and declare immediately due and payable the remaining balance of regular or special assessments for such fiscal year.
  - B) The Association may commence a suit to collect the delinquent assessments, including any accelerated assessment. Any judgment rendered in such action shall include an amount to reimburse the Association for costs of suit, including reasonable attorney's fees.
  - C) The Association may suspend a defaulting Owner's voting right and all right to use and enjoyment of the Common Area until all delinquent assessments are paid.
  - D) All delinquent assessments not paid when due shall be a lien on the Owner's Lot which shall bind the Owner and his heirs , devisees, personal representatives and assigns. At any time following an Owner's failure to pay any assessment when due, the Board may prepare and file a certificate claiming such lien, which certificate shall state the name and address of the delinquent Owner, the legal description of the property subject to the lien, the amount claimed due, and that the claim of lien is being made pursuant to this Declaration. The lien created hereunder may be foreclosed in the manner provided by law for the judicial foreclosure of a mortgage lien upon real

property under applicable Colorado law. In such foreclosure suit, the costs of suit, including reasonable attorneys' fees, shall be awarded to the Association.

E) Notwithstanding provisions of this Section, the lien for assessments provided herein shall be subordinate to the lien of any first Mortgage. The lien of the assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or the United States of America. The sale or transfer of any Lot shall not affect the assessment liens. However, the sale or transfer of any Lot pursuant to first Mortgage foreclosure shall extinguish the lien for such assessment as to payments, which become due prior to such sale or transfer. However, no sale, transfer or foreclosure proceeding brought by any first Mortgage holder shall extinguish the personal obligation of the Owner for delinquent and unpaid assessments.

5.7. Assessments for Capitol Improvements. In addition to regular, special and reimbursement assessments, the Association may levy, in any fiscal year, an assessment applicable to that year only for the purpose of defraying, in whole or part, the cost of any construction, reconstruction, repair or replacement of Improvements to or upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the approval of two-thirds of the Class A and Class B votes present at any meeting called for such purpose at which a quorum is present. For the purpose of making capital Improvement assessments, a quorum shall be not less than fifty percent (50%) of the total Class A Class B membership votes at the time of such meeting. In assessing capital improvements, finally platted Class B memberships shall be assessed at one-third (1/3) of the rate of Class A memberships and in no event shall the assessments against Class B memberships exceed fifty percent (50%) of the total assessments against Class A and Class B memberships.

## ARTICLE VI ANNEXATION

6.1. General. Declarant may at any time annex to the Properties without the consent of the Owners or the Association all or any portion of the real property described in Exhibit B attached hereto and incorporated by this reference. This power of annexation without the consent of the Owners shall be in existence for a period of twenty (20) years from the date of recording of this Declaration. Declarant may extend this period for an additional ten (10) years by recording a supplement to this Declaration before the expiration of the initial 20-year period.

6.2. Annexation Procedures. The annexation of any Properties shall become effective when the last of the following events occurs:

- A) A Plat of the Properties to be annexed has been approved by applicable governmental authority and filed with respect to the real property to be annexed; and
- B) Declarant shall have executed and recorded a Supplemental Declaration which shall describe the real property which is to be annexed, shall set forth or refer to additional or different covenants, conditions and restrictions applicable to the annexed property and shall

declare that the annexed property shall be subject to this Declaration and all additional or different covenants, conditions and restrictions set forth in the Supplemental Declaration.

- 6.3. Effect of Annexation. Upon any annexation becoming effective, the property subject to the annexation shall become and constitute a part of the Properties and the Association shall have and shall accept and exercise all rights, duties and obligations with respect to such annexed property as are set forth in this Declaration, Supplemental Declarations, the Plat, and Articles and Bylaws of the Association.

## ARTICLE VII

### AMENDMENTS TO DECLARATION

Declarant reserves the right to make modifications, additions or deletions in or to the Plat, this Declaration or any Supplemental Declaration as may be required by Mortgage lender or insurer, or as may be necessary to comply with building codes, governmental regulations, or rules, laws or ordinances of applicable governmental authorities, provided that no such modifications, additions or deletions shall require the physical modification of any Building or Improvement or decrease any financial obligation of Declarant. Except for the rights reserved to Declarant, this Declaration shall not be revoked, modified or amended except upon the affirmative vote of not less than eighty percent (80%) of all memberships entitled to vote in the Association.

## ARTICLE VIII

### GENERAL PROVISIONS

- 8.1. Enforcement. The Association, Declarant or any Owner shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any Supplemental Declaration. The failure of the Association, Declarant or any Owner to enforce any covenant or restrictions herein contained shall in no event be deemed a waiver or estoppel of the right to do so thereafter, or a waiver or estoppel of any other or subsequent breach of any covenant, condition or restriction herein contained. Further, no party enforcing any covenant or restriction in this Declaration shall be entitled to contribution from the Association, Declarant, or any other Owner for the enforcing party's costs or expenses incurred for any enforcement action. In any legal proceeding brought for the purpose of enforcing this Declaration or any Supplemental Declaration, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs incurred in connection therewith.
- 8.2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions, which shall remain in full force and effect.
- 8.3. Duration. The covenants and restrictions of this Declaration, or any amendment or modification hereto, shall run with and bind the land for a term of twenty (20) years from the date this Declaration was recorded,

after which time they shall be automatically extended for successive periods of twenty (20) years.

- 8.4. Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular numbers shall include the plural, the plural the singular, and the use of any gender shall include all genders.

IN WITNESS WHEREOF, Declarant sets its hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_.

LOS AMIGOS RANCH PARTNERSHIP  
A Colorado General Partnership

By \_\_\_\_\_  
Thomas E. Neal,  
Managing General Partner

STATE OF ILLINOIS ) ss.  
COUNTY OF COOK )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_. By Thomas E. Neal as the Managing General Partner of Los Amigos Ranch Partnership, a Colorado General Partnership.

Witness my hand and official seal,  
My Commission Expires:\_\_\_\_\_.

\_\_\_\_\_  
Notary Public