

DECLARATION
OF
TIMBER POINTE

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**DECLARATION
OF
TIMBER POINTE**

THIS DECLARATION is made on the date hereinafter set forth by Timber Pointe, LLC, a Colorado Limited Liability Company, whose address is 8480 East Orchard Road, Suite 1100, Englewood, CO 80111 (“**Declarant**”).

RECITALS:

A. Declarant is the owner of certain real estate in Douglas County, State of Colorado, which is more particularly described as set forth in *Exhibit A* attached hereto and by reference made a part hereof.

B. Declarant desires to create a Planned Community on the real estate described in *Exhibit A*, and as may be added by supplement, under the name of “Timber Pointe,” in which portions of the real estate described in *Exhibit A* may be separately owned and in which real estate (Common Elements) may be designated for ownership by an owners association.

C. Declarant has caused the “Timber Pointe Owners Association, Inc.,” a Colorado nonprofit corporation, to be incorporated under the laws of the State of Colorado, as an owners' association, for the purpose of exercising the functions as herein set forth.

**ARTICLE 1
SUBMISSION/DEFINED TERMS**

Section 1.1 Submission of Real Estate. The Declarant hereby submits the real estate described in *Exhibit A* and such additional real estate as may be subsequently added pursuant to the expansion rights reserved in this Declaration, together with all easements, rights and appurtenances thereto and the buildings and improvements erected or to be erected thereon (collectively, the “**Real Estate**”), to the provisions of the Colorado Common Interest Ownership Act that apply to Planned Communities as set forth in C.R.S. § 38-33.3-115, as it may be amended from time to time (the “**Act**”), and to the terms and conditions of this Declaration. In the event the Act is repealed, the Act on the effective date of this Declaration shall remain applicable. Declarant hereby declares that all of the Real Estate described in *Exhibit A* and as added by expansion, shall be held or sold, and conveyed subject to the following easements, restrictions, covenants and conditions included in this Declaration. Declarant further declares that this Declaration is made for the purpose of protecting the value and desirability of the Real Estate, that this Declaration shall run with the Real Estate and shall be binding on all parties having any right, title or interest in the Real Estate or any part thereof, their heirs, legal representatives, successors, and assigns and shall inure to the benefit of each Lot Owner thereof.

Section 1.2 Defined Terms. Each capitalized term in this Declaration shall have the meaning specified or used in the Act, unless otherwise defined in this Declaration or as set forth below:

1. “**Act**” shall mean the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, *et seq.* as applicable to this Community, with this Community being designated as a Planned Community under Section 38-33.3-115 of the Act or as the Act may be made applicable by the express terms of this Declaration, all as the Act may be amended from time to time.
2. “**Assessment**” or “**Common Expense Assessment**” shall include all common expense assessments, insurance assessments, utility assessments and any other expense levied to a Lot pursuant to this Declaration or the Act.
3. “**Association**” shall mean Timber Pointe Owners Association, Inc., a Colorado nonprofit corporation, and its successors.
4. “**Common Elements**” or “**Common Areas**” shall mean the real property owned by the Association, if any and any easements designated or to be maintained by the Association as shown on the recorded plat.
5. “**Common Expense**” shall mean any expenditure made a liability received by or on behalf of the Association, together with any allocations to reserves.
6. “**Community**” shall mean and refer to the Planned Community of Timber Pointe, which Planned Community is a Planned Community as defined in the Act and which Planned Community is also a Common Interest Community as defined in the Act.
7. “**Declarant**” shall mean the Declarant named in this Declaration, and any successor and/or assignee designated by written notice or assignment executed by the Declarant designated in this Declaration and executed by the transferee and recorded, to the extent any rights or powers reserved to Declarant are transferred or assigned to that party.
8. “**Design Review Committee**” or “**Architectural Control Committee**” means the committee initially created by the Declarant for the purpose of establishing architectural controls over the Common Interest Community to insure the proper use and appropriate development and improvement of the Common Interest Community so as to provide for harmonious development and improvement of the Common Interest Community.
9. “**Development**” or “**Special Declarant Rights**” shall mean those rights set forth in this Declaration and those rights set forth in the Act.
10. “**Executive Board**”, “**Board**” or “**Board of Directors**” shall mean the body, regardless of name, designated in this Declaration to act on behalf of the Association.
11. “**Governing Documents**” shall mean this Declaration, the plat, any map, the Articles of Incorporation and the Bylaws of the Association, as all of the foregoing may be amended from time to time.

12. **“Improvement(s)”** shall mean and include, without limitation: (a) the landscaping, construction, installation, erection or expansion of any building, structure, outbuildings, swimming pools, patio covers, awnings, painting or other finish material of any exterior surfaces of any visible structure, additions, walkways, bicycle and/or other trails, sprinkler pipes, garages, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, fixtures, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior tanks, solar equipment, and exterior air conditioning and water softener fixtures; or other improvements, including utility facilities; (b) the demolition or destruction, by voluntary action, of any building, structure or other improvements; (c) the grading, landscaping, excavation, filling or similar disturbances to the surface of the land including, without limitation, irrigation, change of grade, change of ground level, change of drainage pattern or change of stream bed; (d) landscaping, planting, clearing or removing of trees, shrubs, grass or perennial plants; and (e) any change or alteration of any previously approved improvement, including any change of exterior appearance, finish material, color or texture.

13. **“Individual Sewage Disposal System”** or **“ISDS”** shall mean a system for treating, neutralizing, stabilizing or disposing of sewage, which is not part of or connected to a sewage treatment works. An ISDS consists of a septic tank and its components, including piping, absorption field, and other associated equipment or parts.

14. **“Lot”** or **“Unit”** shall mean a physical portion of the Community, designated for separate ownership, shown as a lot on the recorded plat, subject to this Declaration and subject to all easements reserved in this Declaration, or as may be subsequently created. The boundaries of Lots are defined in the plat, and are subject to the terms of this Declaration.

15. **“Lot Owner”** or **“Owner”** shall mean any person or entity that owns a Lot.

16. **“Real Estate”** shall mean the property described in *Exhibit A*, and such additional property as may be subsequently added, pursuant to the expansion rights reserved in this Declaration, together with all easements, rights and appurtenances thereto and the buildings and improvements erected or to be erected thereon. All easements and licenses which the Community is subject to as of the date of this Declaration, as may be recited in *Exhibit A*.

17. **“Residence”** or **“Home”** shall mean the home constructed on a Lot.

18. **“TCHD”** shall mean Tri-County Health Department and its successors.

ARTICLE 2

NAMES/DESCRIPTION OF REAL ESTATE

Section 2.1 Name and Type. The type of Common Interest Community is a Planned Community. The name of the Planned Community is “Timber Pointe.” The name of the Association is the “Timber Pointe Owners Association, Inc.”

Section 2.2 Real Estate. The Planned Community is located in Douglas County, State of Colorado. The initial Real Estate of the Planned Community is described in *Exhibit A*. All easements and licenses to which the Planned Community is presently subject are recited or will be recited upon additional property being annexed to this Declaration. Additional easements are established in the Act. The Planned Community may be subject to other easements or licenses granted pursuant to this Declaration, or granted by authority reserved in any recorded document or established in the Act.

Section 2.3 Utility Easements. Easements for utilities and other purposes over and across the Lots and Common Elements may be as shown upon a recorded plat and on any recorded map of the Planned Community, and as may be established pursuant to the provisions of this Declaration, or granted by authority reserved in any recorded document. Easements are also reserved along all private streets and Lot boundaries for utilities, street signs, stop signs, mail boxes and other Improvements as allowed or permitted by the Declarant or the Association.

Section 2.4 Easements for the Executive Board and Lot Owners. Each Lot shall be subject to an easement in favor of the Executive Board (including its agents, employees and contractors) and to each Lot Owner to allow for their performance of obligations in this Declaration. On exercising this easement right, the party exercising the right shall be responsible for any resulting damages, and a lien therefore is authorized and established against that party's property, pursuant to this Declaration.

Section 2.5 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or subsequently servicing the Planned Community, to enter upon any part of the Planned Community in the performance of their duties.

Section 2.6 Access from Public Roads and/or Highways. Access to the Community is available from public roads and/or highways. Public roads and highways are controlled by local and/or state government, and revisions or changes to the roads and/or highways as state or local government may determine.

ARTICLE 3 THE ASSOCIATION

Section 3.1 Membership. Every person who is a record Lot Owner of a fee interest in any Lot which is subject to this Declaration shall be a "Member" of the Association, whether the Association is unincorporated or incorporated. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for such membership. Where more than one person holds an interest in any Lot, all such persons shall be members.

Section 3.2 General Purposes and Powers of the Association. The Association, through its Executive Board, shall perform functions and manage the Planned Community as provided in this Declaration so as to protect the value and desirability of the Planned Community and the Lots and to further the interests of the residents, occupants, tenants and guests of the Planned Community and Members of the Association. Any purchaser of a Lot shall be deemed

to have assented to, ratified and approved such designation and management. The Association shall have all power necessary or desirable to effectuate such purposes.

Section 3.3 Authority of the Association. The business affairs of the Planned Community shall be managed by the Association. The Association shall be governed by the Act, this Declaration, the plat, any map, its Articles of Incorporation and Bylaws. The Executive Board may, by written resolution, delegate authority to a manager or managing agent for the Association, provided no such delegation shall relieve the Board of final responsibility.

Section 3.4 Specific Powers. The Association shall have the powers, authority and duties as necessary and proper to manage the business and affairs of the Planned Community. The Association shall have all of the powers, authority and duties permitted or set forth in the Act. The Association shall have the power to assign its right to future income, including the right to assign its right to receive Common Expense Assessments, but only upon the affirmative vote of a majority of the Lot Owners present at a meeting called for that purpose.

Section 3.5 Association Performance. The Association may not cease to perform its obligations under this Declaration, without the written consent of Douglas County, or applicable local government. The Association shall be obligated to continue to perform its obligations, whether it remains incorporated or not.

Section 3.6 Allocated Interests.

(a) The Common Expense liability and votes in the Association allocated to each Lot are set as follows:

- (i) the percentage of liability for Common Expenses, equally; and
- (ii) the number of votes in the Association, equally.

(b) If any Lot with individually metered utilities provides some of those utilities to the Association or to Common Elements of the Association, then that Lot and the Owner's Common Expense Assessment shall be credited by the Association for the reasonable value of the utilities provided.

(c) If Lots are added to or withdrawn from the Planned Community pursuant to the provisions of this Declaration and the Act, the formulas set forth above shall be used to reallocate the Allocated Interests.

Section 3.7 Association Agreements. Any agreement for professional management of the Planned Community or any contract providing for services of the Declarant may not exceed one (1) year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee or penalty upon thirty (30) days' written notice. The Association shall not be bound either directly or indirectly to contracts or leases (including management contracts) entered into during the Declarant control period unless the Association is provided with a right of termination of any such contract or lease without cause, which is exercisable without penalty at any time after the turnover date upon not more than thirty (30) days' notice to the other party thereto.

Section 3.8 Indemnification. To the full extent permitted by law, each officer and director of the Association shall be and are hereby indemnified by the Lot Owners and the Association against all expenses and liabilities including attorneys' fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer or director of the Association, or any settlements thereof, whether or not they are an officer or director of the Association at the time such expenses are incurred; except in such cases wherein such officer or director is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Executive Board approves such settlement and reimbursement as being in the best interests of the Association.

Section 3.9 Declarant Control. The Declarant shall have the reserved power, to appoint and remove officers and members of the Executive Board as allowed for under the Act. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the period of Declarant Control, but, in that event, the Declarant may require, for the duration of the period of Declarant Control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

ARTICLE 4

LOTS AND COMMON ELEMENTS

Section 4.1 Number of Lots. The number of Lots initially included in the Planned Community is 12. Declarant reserves the right to create and add additional Lots up to a total of 40 or the maximum number of Lots for the properties subject to this Declaration as allowed by any governmental entity having jurisdiction, whichever is greater.

Section 4.2 Identification of Lots/Lot Descriptions. The identification of each Lot is shown on the plat. Every contract for sale, deed, lease, security interest, will or other legal instrument shall legally describe a Lot by its identifying Lot number, followed by the name of the Community, with reference to the plat, any map and the Declaration. Reference to the Declaration, plat and map in any instrument shall be deemed to include any supplement(s) or amendment(s) to the Declaration, plat or map, without specific references thereto.

Section 4.3 Lot Boundaries/Owner Maintenance.

(a) Owners are responsible for the maintenance, repair and replacement of the Improvements, landscaping and properties located within their Lot boundaries, including any ISDS (as defined in this Declaration, and as specific maintenance and other actions of an Owners in relation to their ISDS are more fully addressed elsewhere in this Declaration) and day to day maintenance, care and operation of their ISDS excluding any open space or trails easements as shown on the Plat.

(b) Owners shall provide for all interior and exterior maintenance, repair, replacement and improvement of all Improvements constructed on or as a part of a Lot, including any ISDS.

(c) The planes defined by the boundary lines on the plat for the Real Estate are designated as boundaries of each Lot. Each Lot includes: the spaces and improvements lying within the boundaries described above, and also includes the utilities, water lines and utility meters and communications, television, telephone and electrical receptacles and boxes serving that Lot exclusively, whether or not in the boundaries or contiguous to the Lot, unless the same are maintained by a governmental agency or entity.

(d) Landscape maintenance on each Lot by an Owner shall include eliminating all noxious weeds and such other weeds as defined by the County or the Association and maintenance of a Lot in a condition and manner compatible with the other Lots in the Community.

Section 4.4 Association Maintenance and Services.

(a) The Executive Board of the Association shall determine the specifications, scope, extent, nature and parameters of the Association's maintenance responsibilities.

(b) The Association shall be responsible for:

(i) improvement, maintenance, repair, upkeep, reconstruction, replacement and receiving and processing of complaints of and relating to private roadways, gates or gate-like or other entry features, entry monumentation (if any), bridges, drainage facilities located on Common Elements, all drainage facilities located within easements (as required and set forth on the plat), including culverts, channels, ditches, hydraulic structures, and other property owned by the Association and landscaped areas in dedicated public or private right of ways or public easements any open space easement or trail easement as shown on the Plat, the entry monument, detention ponds or areas, any perimeter landscaping, any Community mail boxes or kiosk, (collectively, the "Common Elements");

(ii) improvement, maintenance, repair, upkeep, reconstruction, replacement of any entry landscaping and monumentation, which may be served by utilities from Lot 11, and if so served by utilities from Lot 11, the Association shall reimburse the Owner of Lot 11 for the reasonable costs of the utilities provided;

(iii) the adequate funding of and payment of expenses which may be incurred by virtue of maintenance, repair or replacement of private roadways, bridges, drainage facilities, as set forth on the plat and final development plan, agreement with or requirement of any local governmental authority, Douglas County or other government authorities;

(iv) the improvement, maintenance, repair, upkeep and reconstruction of any easements to or within the Community that are not maintained by others;

(v) the improvement, maintenance, repair, upkeep, reconstruction, replacement and operation of the water or utility lines which serve more than one

Lot, if any;

(vi) trash removal as may be supplied by the Association. If the Association provides this service, the Association may determine not to provide common trash removal, and in that event, trash removal shall be the responsibility of each individual Owner;

(vii) snow and ice management and services, on any Common Elements, unless the Association determines not to provide snow and ice management and services, and in that event, snow and ice management and services on any Common Elements shall be the responsibility of each individual Owner;

(viii) the maintenance, repair, and replacement of certain designated perimeter fences and perimeter landscaping, if any;

(ix) for the payment of expenses, if any, which may be incurred by virtue of maintenance, repair or replacement as set forth on the recorded plat and final development plan, agreement with or requirement of any local governmental authority or other government authorities;

(x) for reporting, on an annual basis, or as otherwise required by TCHD or as agreed to by the Association and TCHD, ISDS inspections to TCHD); all as set forth on the recorded plat; and

(xi) operational expenses of the Association.

(c) The Association may elect to maintain certain areas of the individual Lots, including ISDS, upon determination by the Board, with or without notice to the Owners.

(d) In the event an Owner fails to implement applicable portions of any forest management plan as imposed by the Association, the Association may undertake such applicable portions of that management plan on an Owner's Lot and the Association may assess those expenses exclusively against that Lot Owner and their Lot.

(e) If, during the course of performing its maintenance responsibilities hereunder, the Association discovers that maintenance, repair or replacement is required of an item which is the Owner's responsibility, and such maintenance, repair or replacement must be performed for the Association to properly complete its maintenance project, then the Association may perform such work on behalf of the Owner and at the Owner's sole expense, without prior notice to the Owner, such being deemed an emergency situation hereunder.

(f) If the Board determines that the need for maintenance or repair of the Common Elements is caused through the willful or negligent act of any Owner, or Occupant or their family, guests, lessees, or invitees, then the Association may assess the cost of any such maintenance, repair or replacement against the Owner's or Occupant's Lot, and such cost shall become the personal obligation of the Owner, a lien against the

Lot, and shall be collected as provided herein for the collection of assessments.

(g) The Association shall repair incidental damage to any Lot resulting from performance of work that is the responsibility of the Association. As finish levels can have varying degrees, such repairs will be complete only to the extent of being “paint-ready.” Such repair and subsequent cleaning shall be performed based on a reasonableness standard. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

(h) The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Lot, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, except for injuries or damages arising after the Owner of a Lot has put the Association on notice of a specific leak or flow from any portion of the Common Elements and the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter. The Association shall not be liable to any Owner, or any Owners Occupant, guest or family for any damage or injury caused in whole or in part by the Association’s failure to discharge its responsibilities under the Article where such damage or injury is not a foreseeable, natural result of the Association’s failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 4.5 Maintenance Standards and Interpretation. The maintenance standards and the enforcement thereof and the interpretation of maintenance obligations under this Declaration may vary from one term of the Board to another term of the Board. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Article. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board.

Section 4.6 Common Elements/Use of Common Elements.

(a) The initial Common Elements are anticipated to be the following:

(1) Tract A, TIMBER POINTE FILING NO. 1; and

- (2) The private streets within the Community designated or labeled as follows:

“Wild Timber Drive” and “Wild Timber Court,”
TIMBER POINTE FILING NO. 1.

(b) There shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements without the prior written approval of the Association.

(c) Nothing shall be altered on, constructed in, or removed from the Common Elements without the prior written approval of the Association.

Section 4.7 Private Roadways and Common Elements. All roadways included in the Community shall be private roadways of the Association, as a Common Element, for the benefit of the Owners and any others with easement rights. Private roadways may be gated, with access limited and subject to the regulation and control of the Association. Private roadways and Common Elements may be deeded to and owned by the Association.

Section 4.8 Restriction on Changes to Drainage, as Drainage has been approved by the County. The Association and all Owners are prohibited from constructing or storing anything in any drainage easement or in any way disrupting or changing the drainage pattern as initially designed and installed on the Real Estate per the County approved storm water drainage plan.

Section 4.9 Lot Owners' Easements of Enjoyment. Every Lot Owner shall have a right and easement access to their Lot and of enjoyment in and to any Common Elements and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions: (a) the right, power and authority of the Association to grant any easement, right-of-way, license, lease, dedication (including any dedication of private streets in the Community to local government, without further vote or approval of the Owners being required for dedication of any private streets, by the Declarant or by the Board, transfer or conveyance or grant of any similar interest affecting the Common Elements, to the extent permitted by the Act; (b) the right of the Association to close or limit the use of the Common Elements while maintaining, repairing and making replacements in the Common Elements.; and (c) the Development and Special Declarant Rights of the Declarant reserved in this Declaration.

Section 4.10 Delegation of Use. Any Lot Owner may delegate their right of enjoyment to the Common Elements and facilities to the members of their family, their tenants, guests, or contract purchasers who reside at their Lot.

ARTICLE 5

COVENANT FOR COMMON EXPENSE ASSESSMENTS

Section 5.1 Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments. Declarant, for each Lot, shall be deemed to covenant and agree, and each Lot Owner, by acceptance of a deed for a Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association

annual Common Expense Assessments and other assessments as imposed by the Association. Such assessments, including fees, charges, late charges, attorney fees, fines and interest charged by the Association shall be the personal obligation of the Lot Owner of such Lot at the time when the assessment or other charges became or fell due. The Association annual Common Expense Assessments and such other assessments as imposed by the Association, including fees, charges, late charges, attorney fees, fines and interest charged by the Association, shall be a charge on each Lot and shall be a continuing lien upon the Lot against which each such assessment or charge is made. If any assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment becomes due. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them. No Lot Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Elements or by abandonment of the Lot against which the Common Expense Assessments are made. All assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted by any reason including, without limitation, any claim that the Association or the Executive Board is not properly exercising its duties and powers under this Declaration.

Section 5.2 Apportionment of Common Expenses/Budgeting. . Except as provided in this Declaration, all Common Expense Assessments shall be assessed against all Lots in accordance with budgets of the Association and the formula for liability for the Common Expenses as set forth in this Declaration.

Section 5.3 Annual Assessment/Commencement of Common Expense Assessments. The Common Expense Assessment may be made on an annual basis against all Lots and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such assessment year. Common Expense Assessments shall be due and payable in monthly, quarterly, or annual installments, or in any other manner, as determined by the Executive Board. Common Expense Assessments may begin on the first day of the month in which conveyance of the first Lot to a Lot Owner other than the Declarant occurs. The omission or failure of the Executive Board to levy the assessment for any period shall not be deemed a waiver, modification or a release of the Lot Owners from their obligation to pay.

Section 5.4 Effect of Non-Payment of Assessments. Any assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within ten (10) days after the due date thereof, as established by the Executive Board, shall bear interest at the rate established by the Executive Board, on a per annum basis from the due date, and the Association may assess a reasonable late charge thereon as determined by the Executive Board. Failure to make payment within sixty (60) days of the due date thereof shall cause the total amount of such Lot Owner's Common Expense Assessment for the remainder of that fiscal year to become immediately due and payable at the option of the Board. Further, the Association may bring an action at law or in equity, or both, against any Lot Owner personally obligated to pay such overdue assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Lot Owner's Lot. An action at law or in equity by the Association against a Lot Owner to recover a money judgment for unpaid assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien.

Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent assessment, charges or fees, or monthly or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Lot at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, vote the Association votes appurtenant to ownership of a Lot convey or otherwise deal with the same. If a foreclosure action is filed to foreclose any assessment lien, and a Lot Owner abandons or leaves vacant his or her Lot, and the Home or Residence on the Lot, the Board may take possession and rent said Lot or apply for the appointment of a receiver for the Lot without prior notice to the Lot Owner. The rights of the Association shall be expressly subordinate to the rights of any holder of a first lien security interest as set forth in its deed of trust or mortgage (including any assignment of rents), to the extent permitted under the Act.

Section 5.5 Lien Priority. The lien of the Association under this Section is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first lien security interest on the Lot (except as allowed by the Act with regard to the limited lien priority allowed to the Association); and (3) liens for real estate taxes and other governmental assessments or charges against the Lot. This Section does not affect the priority of mechanics' or material men's liens. The lien of the Association under this Article is not subject to the provision of any homestead exemption as allowed under state or federal law. Sale or transfer of any Lot shall not affect the lien for said assessments or charges except that sale or transfer of any Lot pursuant to foreclosure of any first lien security interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of assessment charges as provided by applicable state law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Lot from continuing liability for any assessment charges thereafter becoming due, nor from the lien thereof.

Section 5.6 Initial Capital/Working Fund. The Association shall require the first Lot Owner of each Lot to make a non-refundable payment to the Association in an amount equal to \$1,000.00, which sum shall be used by the Association for initial expenses. Said working fund shall be collected and transferred to the Association at the time of closing of the initial sale by Declarant of each Lot, as aforesaid, and shall be for the use and benefit of the Association. Such payment shall not relieve a Lot Owner from making regular payments of assessments as the same become due.

Section 5.7 Common Expenses Attributable to Fewer Than All Lots. Any Common Expense associated with the maintenance, repair or replacement of components and elements attached to or a part of a Lot or Lots or to a Lot or Lots to which a Limited Common Element is assigned may be assessed against that or those Lots. If any such Limited Common Element is assigned to more than one (1) Lot, the Common Expenses attributable to the Limited Common Element may be assessed equally among the Lots to which it is assigned or in such reasonable proportions as determined by the Association. Any Common Expense for services provided by the Association to an individual Lot at the request of the Lot Owner may be assessed against that Lot. Any insurance premium increase attributable to a particular Lot by virtue of activities in or construction of the Lot shall be assessed against that Lot. An assessment to pay a judgment against the Association may be made only against the Lots in the Common Interest Community at the time the judgment was entered, in proportion to their Common Expense liabilities. If a

Common Expense is caused by the misconduct of a Lot Owner, the Association may assess that expense exclusively against that Lot Owner and their Lot. Fees, charges, taxes, impositions, late charges, fines, collection costs and interest charged against a Lot Owner pursuant to this Section are enforceable as Common Expense Assessments.

ARTICLE 6
COVENANTS AND RESTRICTIONS ON USE,
ALIENATION AND OCCUPANCY

Section 6.1 Plat Restrictions. The restrictions, if any, included on the plat for the Real Estate are incorporated herein by this reference.

Section 6.2 Flexible Application of Covenants and Restrictions. The strict application of any restrictions or covenants in any specific case may be modified or waived, in whole or in part, by the Executive Board or by an appropriate committee (subject to review by the Executive Board) if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing.

Section 6.3 Use/Occupancy/Home Business and/or Professional Uses. All Real Estate within the Community shall be used only for residential uses and/or uses or purposes as allowed by local zoning, control and regulation and as allowed under this Declaration. The primary use of each Lot is restricted to that of a single family Residence. The term "single family Residence" means a single housekeeping unit and allows for a second Residence, home or outbuilding, if allowed by zoning, provided the second Residence, home or outbuilding is not rented to a third party. Except for those activities conducted as a part of the marketing, construction and development program of the Declarant and its assignees, no primary use of a Lot or Residence may include industry, business, trade or commercial activities. Further, no Lot may be used or rented for transient, hotel or motel purposes. Home business and professional pursuits are permitted, provided however, the use is secondary to the primary residential use of the Lot/Residence, and such activity must be conducted with no more than 1 employee, without public visits, without nonresidential storage or other similar disruptive uses to the primary residential uses of Lots in the Community. In the event of a controversy on whether a secondary uses is disruptive to the primary residential uses, the determinations of the Board of Directors shall be final, determinative and binding. No Improvements located upon a Lot shall be occupied in any manner at any time prior to being fully completed in accordance with approved plans.

Section 6.4 Design Approval Required. Improvements to the Lot must first be approved by the Design Review Committee as set forth in this Declaration. Specifically, no structure, temporary building, trailer attachment, improvements, landscaping change shall be commenced, constructed, erected, placed or installed, including, but not limited to, a change in painting and/or staining of exterior siding, unless first submitted to and approved in writing by the Design Review Committee. No barn or other out-building shall be used or permitted to be kept or stored on any portion of a Lot, either temporarily or permanently, unless approved by the Design Review Committee. All additions to the Improvements on a Lot shall be of new construction. No buildings or structures shall be moved from other locations onto a Lot.

Section 6.5 Building-Residence Setbacks. Building setbacks may be established in the Design Review Committee and may be published in any guidelines or standards of that Committee, establishing areas of a Lot that may have a Residence, Home or any other out building constructed on any part of a Lot. Additionally, setbacks may be established for the front, side and rear Lot lines, and may be as set forth in any guidelines or standards of the Design Review Committee, except if a variance is granted or as approved by the Design Review Committee.

Section 6.6 Dwelling Size/Garage Required.

(a) No ranch or single story dwelling shall be permitted on any Lot with less than two thousand four hundred (2,400) square feet of improved enclosed space, excluding garages and basements, it being the intention and purpose hereof to assure that all ranch or one (1) story dwellings shall be of a size of not less than two thousand four hundred (2,400) square feet, unless expressly approved with a smaller amount of square footage by the Design Review Committee.

(b) No two (2) or multistory dwelling shall be permitted on any Lot with less than three thousand (3,000) square feet of improved enclosed space, excluding garages and basements, it being the intention and purpose hereof to assure that all two (2) or multistory dwellings shall be of a size of not less than three thousand (3,000) square feet, unless expressly approved with a smaller amount of square footage by the Design Review Committee.

(c) All dwellings shall have, either attached or detached, at least one garage for at least three cars.

Section 6.7 Leasing Restrictions and Covenants. Any Owner shall have the right to lease or allow occupancy of the Improvements on a Lot by other persons upon such terms and conditions as the Owner may deem advisable, subject to restrictions of this Declaration, subject to restrictions of record and subject to Rules and Regulations as may be adopted by the Association subject to the following:

(a) “Leasing” or “Renting,” for the purposes of this Declaration, is defined as regular, exclusive occupancy of a Home on a Lot by any person other than the Owner; provided, however, for the purposes of this Declaration, leasing shall not include the occupancy of the Lot by the child or parent of an Owner. For the purposes of this Declaration, occupancy by a roommate of an Owner who occupies the Home as such Owner’s primary residence shall not constitute leasing.

(b) All leases or rental agreements shall be in writing and shall provide that the leases or rental agreements are subject to all terms of the Governing Documents. Owners are required to provide tenants with copies of the current Declaration, Articles of Incorporation, Bylaws and any Rules and Regulations of the Association.

(c) Each Owner who leases his or her Lot shall provide the Association, upon request, a copy of the current lease and tenant information, including the names of all occupants, vehicle descriptions, including license plate numbers, and any other

information reasonably requested by the Association or its agents.

(d) Each Owner is strongly encouraged to conduct full background checks, including credit and criminal reports, for each lease applicant.

(e) All occupancies, leases and rental agreements of Units shall state that the failure of the tenant, lessee, renter or their guests to comply with the terms of the Governing Documents shall constitute a default of the occupancy, lease or rental agreement and of this Declaration and such default shall be enforceable by either the Association or the landlord, or by both of them.

(f) All occupancies of Lots shall be subject to the right of the Association to remove and/or evict the occupant for failure to comply with the terms of the Declaration, the Bylaws of the Association, the Articles of Incorporation or the Rules and Regulations of the Association. If the Association requests that the Owner evict the Owner's tenant based on the terms of this Declaration, and the Owner fails to commence such action within 30 days of the date of the Association's request and notice, the Association may commence eviction proceedings. Upon failure by the Owner to comply with the Association's request to evict, the Owner delegates and assigns to the Association, acting through the Board, the power and authority to evict the lessee as attorney-in-fact on behalf of and for the benefit of the Owner. If the Association evicts the lessee, any costs, including, but not limited to, reasonable attorney fees actually incurred and court costs associated with the eviction shall be an Assessment and lien against the Lot.

(g) Leases shall be for or of the entire Home on a Lot.

(h) All Owners who reside at a place other than the Home on a Lot shall provide to the Association an address and phone number(s) where the Owner can be reached in the case of emergency or other Association business. It is the sole responsibility of the Owner to keep this information current.

(i) The Association shall have the authority to adopt Rules and Regulations regarding leasing, including the implementation of this restriction, and for implementation of other restrictions in the Declaration and as allowed by law.

Section 6.8 Lots and Fences to be Maintained.

Owners are responsible for the maintenance, repair and replacement of the Improvements, landscaping and properties located within their boundaries including all fencing on their Lot. Fences shall be maintained properly and shall not create a hazard or nuisance to any adjoining parcel owner. Each Lot, at all times, shall be kept well maintained, in good repair, and replacement, and in a clean, sightly, and wholesome condition. Trash, litter, junk, boxes, containers, bottles, cans implements, machinery, lumber or other building materials shall not be permitted to remain exposed upon or within any Lot so that the same are visible from any neighboring Lot, or any street, except as necessary during a period of construction. The Association and its agents, shall have the authority to enter, replace, maintain, repair and clean up Lots which do not conform to the provisions of this Section, and to charge and collect from the Lot Owners thereof all reasonable costs related thereto as an assessment hereunder.

Section 6.9 Restrictions on Fences. Boundary fences along Lot lines are not allowed and all fencing is restricted as set forth in this Declaration and the guidelines or standards, subject to review and approval by the Design Review Committee. Please also see the provisions on fencing in the Article of this Declaration on Architectural Approval and Control, for additional covenants, restrictions, terms and conditions on fencing.

Section 6.10 Outdoor Lighting.

(a) All outdoor lighting on a Lot must be fully shielded or hooded so that the light is cast downward, and must, at a minimum, conform to all applicable Association outdoor-lighting codes. Motion-activated lights, fully shielded or hooded so that the light is cast downward, are recommended.

(b) Outdoor mercury lights and lighting is prohibited.

(c) Outdoor lights on a Lot may not directly illuminate areas beyond the Owner's Lot.

(d) Mast-mounted or pole-mounted outdoor lights on Lots are prohibited, except to the extent expressly permitted by the Committee.

Section 6.11 Erosion and Sediment Control/Protection of Existing Vegetation.

Construction on each Lot shall be completed with minimal disturbance to existing vegetation. Disturbed soils shall be protected against erosion by the Lot Owner by using landscaping materials or Douglas County approved dry land grass specifications. Douglas County approved sediment control measures should be utilized during construction.

Section 6.12 Water Covenant for Upper Dawson Aquifer and Non-tributary Groundwater.

The Lots are served or are planned to be served by individual wells in the Upper Dawson aquifer (pursuant to an augmentation plan decreed in Case No. 2005CW85, District Court, Water Division 1) or by non-tributary groundwater wells. As requested by the County of Douglas, the following covenants, conditions and restrictions apply:

(a) Lot Owners may withdraw no more than one acre-foot per year of Upper Dawson aquifer groundwater.

(b) A maximum of 7,500 square feet of landscaping on each Lot may be watered or irrigated (as restricted on the plat).

(c) Lot Owners have the right to obtain a well permit pursuant to the terms and conditions of the augmentation plan decreed in Case No. 2005CW85, as that decree may be amended and as other conditions may be imposed by state or local government, or others with jurisdiction.

(d) Any water available from the Upper Dawson Aquifer or from conveyed groundwater is the water supply for the Lot, and may not be sold or leased for any other purpose.

(e) Each Lot Owner is responsible for obtaining a well permit, construction of the well, and operation, maintenance, repair, replacement and improvement of their well.

(f) Wells may be required to be logged by any entity with jurisdiction, unless a waiver is obtained.

(g) All wells are to be metered so as to provide information necessary for reporting pursuant to the augmentation plan.

(h) Wells will be permitted to operate at a rate of flow not to exceed 15 gpm.

(i) Each Lot Owner shall provide any information necessary to enable the Association to provide an accounting of the withdrawals of all wells operating under the augmentation plan to the Division Engineer pursuant to applicable decrees.

(j) Lot Owners shall provide to the Association, a total of the annual amount of water withdrawn during the previous calendar year (January 1 through December 31), by the end of the following January.

(k) Upon request, the Association may collect information and provide a summary of withdrawals from all Upper Dawson aquifer wells for the previous calendar year to the Division Engineer.

(l) The Declarant assigns or is to assign to the Association any and all right, interests and responsibility for the operation of Lot wells or enforcement of the augmentation plan.

(m) The Association is responsible for complying with the augmentation plan.

(n) Failure of the Association or the Lot Owner to comply with the terms and conditions of the augmentation plan may result in an order from the Division Engineer's office to curtail or eliminate pumping of the wells.

(o) Declarant has conveyed or is to convey to the Association all remaining non-tributary groundwater in the Lower Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifer related to the Real Estate as decreed in Case No. 2005CW85. This non-tributary groundwater shall be held by the Association for a future water supply for the Lots. This non-tributary groundwater may be conveyed to a Lot Owner who may require a well to replace or in lieu of an Upper Dawson aquifer well. The water may be from any aquifer, at the discretion of the Lot Owner, and based on availability, in an amount of one acre-foot per year for the same uses as permitted for the Upper Dawson aquifer wells. Conveyance of water for a well shall be by the Association to the Lot Owner upon a reasonable showing by the Lot Owner that a new source of water and well is necessary to serve the Lot. Conveyance shall be the form of a quit claim or bargain and sale deed, approved by the Board, which deed shall be sufficient proof of ownership to obtain a new well permit by the Lot Owner, pursuant to the decree in Case No. 2005CW85.

Section 6.13 Covenants and Requirements Regarding Individual Sewage Disposal Systems (ISDS).

(a) Lots within Timber Pointe and Improvements constructed on the Lot are expected to be served by an ISDS, as ISDS is defined in this Declaration.

(b) If Improvements are on a Lot served by an ISDS, then the ISDS for that Lot, and for any Improvements located on that Lot, shall be designed, located, constructed, equipped, operated and maintained by the Owner of the Lot. The ISDS must be designed, located, constructed, equipped, operated and maintained to be adequate and proper, and to be in accordance with the requirements of this Declaration and the then current requirements, standards and/or recommendations of the Association, of TCHD, and/or of any governmental authority having jurisdiction.

(c) Unless otherwise approved by the Design Review Committee, and by TCHD, no ISDS shall be nearer than ten (10) feet to any side Lot line of any Lot.

(d) Each ISDS shall also meet all Association or Design Review Committee setback requirements, all TCHD setback or other requirements, and all setback requirements of any governmental authority having jurisdiction. These requirements include having all visible parts of an ISDS reasonably painted, stained or treated with natural or complimentary colors, so that these visible components of an ISDS (such as vent piping) are not aesthetically disruptive, but rather, are complimentary to the natural topography and landscape.

(e) Each ISDS must remain free of any Improvements, e.g., irrigated landscaping, paving, outbuildings, etc. Additionally, if special provisions, notes and/or covenants of the plat relate to an ISDS for a particular Lot, the Lot is subject to such provisions as noted on the plat.

(f) Lot specific soils and percolation tests or other requirements may also be required or imposed by the plat, by the Association, by TCHD and/or by any governmental authority having jurisdiction.

(g) TCHD requires, at the time this Declaration was reviewed by TCHD, the following:

(i) that each ISDS be inspected on a periodic basis, which may be at least once every two years (for a conventional ISDS) or once every year (for engineered ISDS) by an ISDS contractor;

(ii) that inspecting contractors must be licensed, approved or certified by TCHD;

(iii) that repairs and improvements, noted in an inspection report, must be timely and adequately made by the Owner of the Lot; and

(iv) that pumping of an ISDS is required by TCHD at least once every 4 years.

(h) TCHD and/or the Association may impose other requirements on an ISDS of an Owner, by written notice from either the Association or TCHD to all Owners.

(i) Each Owner with an ISDS on their Lot acknowledges their covenant and responsibility to have the inspections, above, performed.

(j) Then, after inspections are performed, each Owner acknowledges their obligation for reporting, on an annual basis, or as otherwise required by the Association, per agreement with TCHD, the ISDS inspection of the Owner. Upon completion of this periodic required inspection of an Owner's ISDS, the Owner shall submit any reports or receipts, indicating that their ISDS has been inspected and is operating satisfactorily, to the Association, at such office or address of the Association as it then is using. If an inspection reveals deficiencies in an ISDS, the Owner must timely remedy those deficiencies to the satisfaction of the Association and of TCHD. The Owner must notify the Association when the deficiencies have been corrected.

(k) No later than December 31st of each year, the Association shall provide TCHD an annual report on the Timber Point ISDS Management Program (on all ISDS's within the Community). Such annual report may be a spread sheet consisting of a list of addresses of Lots with an ISDS, with the closing date for each Lot, with the date a certificate of occupancy was first issued for any Improvements on a Lot, with the date that the ISDS was either pumped and/or inspected, and a notation of whether the ISDS passed inspection or the date of follow up action taken by either the Owner or the Association based on any deficiency identified in an inspection report.

(l) For failure of an Owner to comply with any of the requirements of this section, or requirements as subsequently imposed by the Association or TCHD, the Association and TCHD shall have all remedies available to them under this Declaration and Colorado law. The Association's remedies specifically include imposing a fine on the Owner and the Lot of that Owner, having inspections performed and repairs or other work performed, as reasonably determined by the Association, with all of the costs authorized to be billed by the Association against that Lot Owner. In the event of nonpayment, the Association shall have all remedies as provided for in the collection of assessments.

Section 6.14 Restrictions on Vehicles, Vehicular Parking, Storage and Repairs.

(a) No vehicles, trailers or accessories thereto or equipment may be parked or stored on the streets within the Community for a period of longer than 72 hours.

(b) No more than four (4) vehicles may be maintained on a Lot, excluding those parking inside any Improvements, a Residence or a garage.

(c) Oversized vehicles, trailers, camping trailers, boat trailers, hauling trailers, boats, or accessories thereto, trucks, self-contained motorized recreational vehicles, or other oversized type of vehicle or equipment, may be parked or stored on a Lot if reasonably screened from view or if parked or stored within a garage. This restriction shall not apply to trucks or other commercial vehicles temporarily located within the Community which is necessary for construction or for the maintenance of the access easements, Common Elements or any Improvement located on a Lot.

(d) No abandoned vehicles of any kind shall be permitted on any Lot. A vehicle shall be considered "abandoned" if it remains non-operative for a period of one (1) month or fails to have current registration and license plates. No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicle, trailer or boat may be performed or conducted on a Lot, except within a completely enclosed structure which screens the sight and sound of the repair of other activity from other Owners and residents.

Section 6.15 No Modular Homes, Mobile Homes or Temporary Structures. No modular homes or structures shall be allowed in the Community. Except during construction of Improvements on a Lot, no trailer, mobile home, tent or shack or other temporary building or similar structure shall be placed upon any Lot.

Section 6.16 Restrictions on Number of and on Animals and Pets. Pets (including cats, dogs, other animals, birds and reptiles, and excluding horses and other farm animals) may be kept, maintained or harbored by Owners on Lots within the Community up to the total number of pets allowed by applicable local government or ordinance; unless the pet becomes obnoxious to other Owners or occupants. In that event the person having control of the pet shall be given a written notice by the Association to correct the problem or remove the pet from the Community. The written notices provided for herein shall be issued by the authorized representative of the Association. Pets may not be kept for any commercial purposes. Owners or persons having control of a pet shall, while the pet is in the Community, be responsible for cleaning up after their pet and shall be deemed to hold the Association harmless from any claim resulting from any action of their pet and any costs incurred by the Association. Local government ordinances and restrictions on pet control shall also be enforceable as restrictions in the Community. These covenants and restrictions on pets are for the benefit of Owners, occupants, residents and wildlife within and around the Planned Community. These covenants and restrictions are intended to be of considerable value to Owners, occupants and residents and in reducing the harassment of wildlife by domestic pets and decreasing the potential of pets becoming victims to predators in the area.

Section 6.17 Restriction on Signs and Banners. Except as allowed by state or applicable federal law, no advertising, signs or banners of any character shall be erected, placed, permitted, or maintained on any Lot other than allowed by law and for sale or for rent sign not to exceed four (4) square feet in size. Notwithstanding the foregoing, reasonable signs, advertising, or billboards used by the Declarant in connection with the sale or rental of the Lots, or otherwise in connection with the sale or rental of the Lots or otherwise in connection with the development of or construction on the Lots, shall be permissible, provided that such use shall not interfere with an Owners' use and enjoyment of their Lot or with their ingress or egress from a public way to their Lot.

Section 6.18 Roof Apparatus. No types of refrigerating, cooling or heating apparatus shall be permitted on a roof and no such apparatus shall be permitted elsewhere on a Lot, except when appropriately screened and approved by the Design Review Committee.

Section 6.19 No Wind Generators. No wind generators of any kind shall be constructed, installed, erected, or maintained on the Lots.

Section 6.20 Clotheslines and Storage. No clotheslines, equipment or storage areas shall be located on any Lot as to be visible from a street and/or public view and/or from the Common Elements.

Section 6.21 Restriction on Garbage Facilities on each Lot and Regarding Garbage Collection. Facilities, such as garbage cans, dumpsters, etc., of Owners located on a Lot, especially if stored outside of the residence, shall be capped and secured, to limit wildlife access to the garbage, to be friendly to and not a source of food for wildlife, shall be located on a Lot so as not to be visible from the private streets and shall be reasonably and adequate screened, with Improvements and/or landscaping. Additionally, if garbage collection is ever a service of the Association to the Owners, no Owner shall have the right to engage or contract for garbage removal from their Lot, on a weekly or other basis, other than through the service provided by the Association.

Section 6.22 No Unsightliness. All unsightly conditions, structures, facilities, equipment, objects and conditions shall be enclosed within the Improvements constructed on a Lot.

Section 6.23 Cutting of Trees/Clearing of Lots. No tree or trees or shrubs, or clearing of Lots, whether of trees or shrubs now growing or hereafter grown upon any part of a Lot, shall occur without prior written approval of the Design Review Committee; provided, however, that this restriction shall not apply to a tree unless such tree is more than two (2) inches in caliper as measured one (1) foot above grade, and provided further that this restriction shall not be construed to limit in any way reasonable trimming of any trees upon a Lot.

Section 6.24 Outside Burning/Precaution for Fire Hazards. There shall be no exterior fires, except for a conventional barbecue. No Owner or Owners shall permit any condition on his Lot or Lots which creates a fire hazard or is in violation of applicable fire prevention regulations.

Section 6.25 Defensible Space. As required by this Section, each Residence on a Lot shall be surrounded by a thirty (30) foot defensible space or area, or the then current Douglas County standard for defensible space, for protection against wildfire. If not so completed, the Association, Board, or managing agent may perform such work at the Owner's expense in the same manner, and with the same methods to enforce payment, as set forth in this Declaration.

Section 6.26 Forest Management Plan. Each Owner consents to the implementation of a forest management plan as may be approved by the Colorado State Forest Service, a private forester or the Association under the guidance of a professional forester.

Section 6.27 Mountain Pine Beetle (MPB). Mountain Pine Beetle (MPB) is a forest pest that attacks and kills ponderosa pines. It has a one year life cycle, with a mass flight period occurring from July 15th to September 15th. Control measures should be completed prior to July 15th of each year. Inspections should be performed by a professional forester or other plant professional experienced with MPB control.

Section 6.28 Mountain Pine Beetle Control. Access to all Lots and Common Elements shall be granted for the purpose of Mountain Pine Beetle (MPB) control, to inspect, detect and, if required, the removal of infested trees. Cost of removal and/or treatment shall be the responsibility of each Lot owner. If the Lot owner fails to act in a timely manner necessary for prevention of spread of MPB, the Association may enter the Lot to perform appropriate control measures which may be assessed against the Lot and shall be considered an assessment.

Section 6.29 Living with Wildlife. Each Owner consents to and acknowledges their covenant and restriction to live harmoniously with wildlife.

Section 6.30 Bluegrass/Irrigated Lawns/Xeriscaping. Bluegrass or irrigated grass lawns are not required, are discouraged in the Community, and may be restricted by the water provider or local government. Xeriscaping is encouraged.

Section 6.31 Construction Activities. During construction, all construction debris will be stored in a manner which will prevent it from being blown away or otherwise dislodged by storms or high winds.

Section 6.32 Restriction on Subdivision. Lots may not be subdivided except as provided for as a reserved Development Right.

Section 6.33 Nuisances. No nuisance shall be permitted within the Community, nor any use, activity or practice which is the source of unreasonable annoyance or embarrassment to, or which unreasonably offends or disturbs, any Owner or which may unreasonably interfere with the peaceful enjoyment or possession of the proper use of the Real Estate or Common Element, or any portion of the Community by Owners. No improper, offensive or unlawful use shall be permitted within the Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community or a portion thereof shall be observed. As used herein, the term nuisance shall not include any activities of Declarant or its assignees which are reasonably necessary to the development and construction of Improvements within this Community; provided, however, that such activities shall not

reasonably interfere with any Owner's use and enjoyment of their Real Estate, or any Real Estate Owner's ingress and egress to or from their Real Estate and a public way.

Section 6.34 No Annoying Lights, Sounds or Odors. No light shall be emitted from any Lot or any portion of the Community which is unreasonably bright or causes unreasonable glare, and no sound or odor shall be emitted from any Lot or any portion of the Community which would reasonably be found by others to be noxious or offensive. Without limiting the generality of the foregoing, no exterior spotlights, searchlights, speakers, horns, whistles, bells or other light or sound devices shall be located or used on any portion of the Community except with the prior written approval of the Design Review Committee.

Section 6.35 No Restrictions on Sale of a Lot. The right of an Owner to sell transfer or otherwise convey their Lot shall not be subject to any right of first refusal or similar restriction and such Lot may be sold free of any such restrictions, subject to the terms and conditions, covenant and restrictions of this Declaration.

Section 6.36 Restrictions on Hunting, Mining and Drilling. Hunting, mining and/or drilling shall not be permitted within the Community. More specifically, no part of the Community shall be used for the purpose or purposes of hunting, mining, quarrying, drilling, boring or exploring for or removing oil, gas, hydrocarbons, minerals, rocks, stones, gravel or earth, excepting all activities necessary or convenient to removing surface and/or groundwater.

Section 6.37 No Hazardous Activities/Firearms. No activity shall be conducted on any portion of the Community which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any portion of the Community.

Section 6.38 Underground Utilities. All utilities, including electrical, television, radio, and telephone line installations and connections from any property line of a Lot to a Residence or other structures shall be placed underground, except for above-ground utilities existing as of the date of this Declaration and except that during the construction of a Residence the contractor or builder may install a temporary overhead utility line which shall be promptly removed upon completion of construction.

Section 6.39 Antennae. Subject to federal statutes or regulations governing Planned Communities, no exterior television or other antennae, microwave dish, satellite dish, satellite antennae, satellite earth station or similar device of any type shall be erected, installed or maintained on the Common Elements of the Community or on a Residence, except as allowed by federal statutes and regulations. Any exterior television or other antennae, microwave dish, satellite dish, satellite earth station or similar device of any type erected, installed or maintained by an Owner is still subject to reasonable and valid safety restrictions and reasonable restrictions as to screening of the device from view by neighboring Lots. All costs associated with the installation or maintenance of any exterior television or other antennae, microwave dish, satellite dish, satellite earth station or similar device of any type by an Owner, including costs of repair, replacement improvement and maintenance of the structure to which such exterior television or other antennae, microwave dish, satellite dish, satellite earth station or similar device of any type is affixed, erected and/or installed upon, shall be the sole responsibility of that Owner. Although

approved antennae may be installed on Lots, all other exterior radio, TV or other antennae shall remain restricted from Lots.

Section 6.40 Rules and Regulations. In furtherance of the provisions of this Declaration, and the general plan, rules and regulations concerning and governing the Community or any portion thereof may be adopted, amended, or repealed, from time to time, by the Executive Board, or its successors and assigns. The Executive Board may establish and enforce penalties for the infraction thereof.

Section 6.41 No Restrictions on Sale of a Lot. The right of a Lot Owner to sell transfer or otherwise convey their Lot shall not be subject to any right of first refusal or similar restriction and such Lot may be sold free of any such restrictions.

Section 6.42 No Restrictions on Mortgaging of a Lot. There are no restrictions on the right of the Lot Owners to mortgage or otherwise encumber their Lot. There is no requirement for the use of a specific lending institution or particular type of lender.

Section 6.43 Drainage. There shall be no interference with the established drainage pattern over any Lot within the Real Estate, except as approved in writing by the Design Review Committee. The Declarant and all subsequent Owners shall be prohibited from constructing or storing anything in any drainage easement or in any way disrupting or changing the drainage pattern as initially designed and installed on the Real Estate according to the approved storm water drainage plan set forth by Douglas County.

Section 6.44 Declarant's Use. Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible for Declarant, its assigns, employees and agents, to perform such reasonable activities and to maintain upon portions of the Planned Community such facilities as deemed reasonably necessary or incidental to the construction and sale of Lots in the development of the Planned Community, specifically including, without limiting the generality of the foregoing, the maintenance of temporary business offices, storage areas, trash bins, construction yards and equipment, signs, model Lots, temporary sales offices, parking areas and lighting facilities.

ARTICLE 7

DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS

Section 7.1 Development Rights and Special Declarant Rights. The Declarant reserves, for ten (10) years after the recording of this Declaration, the following Development Rights and Special Declarant Rights: (a) the right to relocate boundaries between adjoining Lots, enlarge Lots, enlarge the Common Elements, reduce or diminish the size of Lots, reduce or diminish the size of areas of the Common Elements, subdivide Lots or complete or make improvements; (b) the right to create or construct additional Lots and Common Elements, to subdivide Lots and to convert Lots into Common Elements or to convert Common Elements into Lots or other real property; (c) the right to add Lots and to subject all or any part of the property described in *Exhibit B* attached hereto and hereby incorporated by reference and additional unspecified real estate to the provisions of this Declaration; (d) the right to amend the use restrictions included in this Declaration, together with the right to add new use restrictions; (e)

the right to withdraw any Lot not yet conveyed to an Owner other than Declarant or any part of the Real Estate or the Common Elements from the Community; (f) the right to make amendments to the Declaration or other Governing Documents to meet or comply with any requirements of FHA or VA; (g) the right to exercise any development rights reserved or allowed in the Act; (h) the right to grant or convey, and the right to use, and to permit others to use, easements through the Common Elements as may be reasonably necessary; (i) the right to change the name of the Community; (j) the right to record a map depicting easements on some or all of the Lots; (k) the right to appoint or remove any officer of the Association or any Director during the Declarant Control period; (l) the right to exercise any additional reserve right created by any other provision of this Declaration; (m) the right to amend the Declaration in connection with the exercise of any Development Right; and (n) the right to amend the maps or plat in connection with the exercise of any Development Right.

Section 7.2 Additional Reserved Rights. In addition to the rights set forth above, Declarant also reserves the following additional rights:

(a) Sales. The right to maintain mobile and other sales offices, parking, management offices and models, on Lots or on the Common Elements.

(b) Signs. The right to maintain signs and advertising on the Planned Community to advertise the Planned Community or other communities developed or managed by or affiliated with the Declarant.

(c) Dedications. The right to establish, from time to time, by dedication or otherwise, public streets, utility and other easements for purposes including, but not limited to, public access, access paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas and to create other reservations, exceptions and exclusions.

(d) Use Agreements. The rights to enter into, establish, execute, amend and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulations of parking and/or recreational facilities and/or Common Elements, which may or may not be a part of the Planned Community.

(e) Construction Easement. Declarant and its assignees expressly reserve the right to perform warranty work, and repairs and construction work and to store materials in secure areas, in Lots and in Common Elements and the future right to control such work and repairs and the right of access thereto, until completion. All work may be performed without the consent or approval of any Lot Owner or holder of a security interest. Declarant and its assignees have such an easement through the Common Elements as may be reasonably necessary for exercising reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits and other facilities across the Real Estate.

(f) Access Easement of the Declarant and/or Right of Declarant to establish access through the Community to other Properties, if any of the Declarant. Declarant, and its successors and assigns, shall have an access easement through the Community. Additionally, Declarant, and its successors and assigns, may and have the reserved right

to establish, for ten (10) years after the recording of this Declaration , an access easement through the Community to serve any other properties or real property acquired by or owned by the Declarant, or accessible through the Community. In that event, the properties so served shall be obligated, on a prorated basis by the number of lots, residences, or homes with access, to fund their proportionate share of the maintenance, repair, replacement and improvement of Wild Timber Drive.

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

Section 7.3 Rights Transferable/Rights Transferred. Any rights created or reserved under this Article or the Act for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred recorded in the real property records of Douglas County, State of Colorado. Such instrument shall be executed by the transferor Declarant and the transferee. The rights transferred may then be exercised in compliance with the requirements of C.R.S. § 38-33.3-210 and C.R.S. § 38-33.3-209(6) without the consent of the Association, any Lot Owners or any holders of a security interest in a Lot. Any rights created or reserved under this Article or the Act for the benefit of Declarant may also be transferred to the Association by an instrument describing the rights transferred recorded in the real property records of Douglas County, State of Colorado. Such instrument shall be executed by the transferor Declarant and the Association as transferee. The rights transferred may then be exercised by the Association in compliance with the requirements of C.R.S. § 38-33.3-210 and C.R.S. § 38-33.3-209(6) with the consent of the appropriate Lot Owner(s) or any holders of a Security Interests on the Lot(s).

Section 7.4 No Further Authorizations Needed. The consent of Lot Owners or holders of security interests shall not be required for exercise of any reserved rights, and Declarant or its assignees may proceed without limitation at its sole option. Declarant or its assignees may exercise any reserved rights on all or any portion of the property in whatever order determined. Declarant or its assignees shall not be obligated to exercise any reserved rights or to expand the Planned Community beyond the number of Lots initially submitted.

Section 7.5 Compliance with the Act/Amendment of the Declaration. If Declarant or its assignees elect to exercise any reserved rights, that party shall comply with the Act.

Section 7.6 Interpretation. Recording of amendments to the Declaration, plat or map pursuant to reserved rights in this Declaration shall automatically effectuate the terms and provisions of that amendment. Further, such amendment shall automatically (a) vest in each existing Lot Owner the reallocated Allocated Interests appurtenant to their Lot, and (b) vest in each existing security interest a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Lot. Further, upon the recording of an amendment to the Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Planned Community as expanded and to any Additional Improvements, and the same shall be added to and become a part of the Planned Community for all purposes. All conveyances of Lots after such amendment is recorded shall be effective to transfer rights in all Common Elements, whether or not reference is made to any amendment of the Declaration, plat or map. Reference to the Declaration plat or map in any instrument shall be deemed to include all amendments to the Declaration, plat and the map without specific reference thereto.

Section 7.7 Termination of Reserved Rights. The rights reserved to Declarant, for itself, its successors and assigns, shall expire as set forth above or in the Act, unless (i) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the expansion rights by Declarant, (ii) extended as allowed by law or, (iii) terminated by written instrument executed by the Declarant, recorded in the records of the Clerk and Recorder of Douglas County, State of Colorado.

Section 7.8 Additions by Others. Additions of Lots to the Planned Community may be made by others than the Declarant, upon approval of the Association pursuant to a vote of a majority of a quorum of its members and upon approval of two-thirds (2/3) of the Eligible Holders of first lien Security Interests. Such approval by the members and Eligible Holders of first lien Security Interests shall be evidenced by a certified copy of such resolution of approval and a supplement or amendment to this Declaration, both recorded in records of the Clerk and Recorder of Douglas County, State of Colorado.

ARTICLE 8

ARCHITECTURAL APPROVAL AND REVIEW

Section 8.1 Required Approvals of Improvements and Contractors.

(a) General Restriction. Improvements to a Lot and all landscaping changes are restricted without the prior written approval of the proposed Improvements and the contractor or builder proposed to construct the proposed Improvements by the Design Review Committee.

(b) Specific Restrictions.

(1) No structure or any attachment to a Lot or to the exterior of the improvements on a Lot and no fence, mailbox, or landscaping shall be constructed, erected, placed or installed, including, but not limited to, a change in painting and/or staining of exterior siding, unless complete plans and specifications thereto (said plans and specifications to show exterior design, height, materials, color, location of the structure or addition to the structure, plotted horizontally and vertically, location and size of driveways, general plan of landscaping, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the committee and shall have been first submitted to and approved in writing by the Design Review Committee.

(2) No contractor or builder shall construct any structure or attachment to a Lot or to the exterior of the Improvements on a Lot, or shall construct, erect, place or install any fence, mailbox or landscaping, including, but not limited to, painting and/or staining of exterior siding, unless such contractor or builder shall have been first submitted to and approved in writing by the Design Review Committee.

(c) Residence and Garage. Additionally, the primary Residence on a Lot must be constructed at the same time as any garage or outbuildings, such that Owners may not construct a garage or any outbuildings without also then constructing their primary Residence.

Section 8.2 Design Criteria.

(a) The Design Review Committee shall exercise its reasonable judgment to the end that all attachments, Improvements, construction, landscaping and alterations to Lots shall comply with the requirements set forth in this Declaration and any guidelines of the Committee.

(b) The approval or consent of the Design Review Committee on matters properly coming before it shall not be unreasonably withheld, and actions taken shall not be arbitrary or capricious; decisions shall be conclusive and binding on all interested parties.

(c) Approval shall be based upon, but not limited to, conformity and harmony of exterior appearance of structures with neighboring structures, effective location and use of Improvements on nearby Lots, preservation of aesthetic beauty, compliance with the restrictions contained in this Declaration and conformity with the specifications and purposes generally set out in this Declaration. It is the intent of this Article and this portion of the Declaration and any guidelines or standards adopted by the Design Review Committee, to encourage Residences which are harmonious with the existing natural environment, suggesting design solutions which reduce the apparent visual mass, incorporate materials, colors and textures which generally blend with the landscape, and develop proportions and details appropriate to the Lot, adjoining Lots or sites and within the Community as a whole.

(d) Prior to its review of any plans, specifications and submittals, the Design Review Committee may require applicant(s) to pay any application fees as set forth in the guidelines.

Section 8.3 Establishment of the Design Review Committee. The Design Review Committee (the "Design Review Committee" or "Committee"), shall consist of up to three (3) members. Until ten (10) years from the date this Declaration is recorded Declarant shall appoint all members of the Design Review Committee. Real Estate owned by the Declarant shall be exempt from any control by the Committee. After expiration of Declarant's appointment rights, the Design Review Committee shall then be comprised completely of Owners, without regard to any special qualifications, and the members of the Committee shall then be appointed by the Association. Until that date, Declarant, in its sole discretion, may at any time grant the power of appointment of the members of the Design Review Committee, and the chairman thereof, to any entity succeeding to the assets of Declarant, or to the Association. Notwithstanding the above, appointments shall be for staggered terms of years so as to provide reasonable continuity to the design review process. Until ten (10) years from the date this Declaration is recorded, the Declarant may remove any appointee at any time upon written notice to such appointee.

Section 8.4 Guidelines. To supplement the provisions of this Section, and this Declaration, the Design Review Committee may adopt guidelines and/or standards.

Section 8.5 Required Elements of Improvements. The Committee may require certain elements or components of homes or Improvements proposed to be constructed on the Lots, including the following:

- (a) Automatic fire protection in the interior of homes;
- (b) Radon testing and/or ventilating of proposed homes/Improvements, to meet applicable radon standards; and
- (c) Such other Improvements or conditions as the Committee may reasonably determine.

Section 8.6. Permitting Fees of Owners/Rebates to the Declarant. The Real Estate is subject to requirements for the payment of permitting and other fees to or of the County or others. Owners acknowledge that permitting and other fees, that may have been pre-paid, are to be paid by each Owner, and if previously paid by the Declarant, Declarant shall be entitled to a rebate or reimbursement from the Owner, from any other party that previously received payment, or other offset. In the event an Owner does not reimburse the Declarant, the Declarant shall, upon 90 days written demand, be reimbursed by the Association, and the Association may then recover all of its costs for that reimbursement from the applicable Owner, as an individual assessment to that Owner, pursuant to the terms of the Declaration.

Section 8.7 Fencing. In addition to the covenants and restrictions included within this Declaration, fences and walls are both architectural and landscape architectural design elements, depending on how they are used, and are subject to provisions of this Section. Fences are discouraged in the Community, any installed fences shall be wildlife friendly, as determined and required by the Committee. Further, applications for fencing are to be considered on an individual basis and must be approved by the Design Review Committee. Fences should be an extension of the architecture of the Residence and be constructed of natural materials. Such materials as rock and wood are appropriate for fencing and should be left natural to help them blend into their surroundings. Chain link fences are not permitted unless reasonably screened from view from other Lots. The Design Review Committee may adopt design guidelines detailing the types of fences approved or not allowed.

Section 8.8 Roofing. Roofing materials should be of a fire classification or rating as required by the plat or local government, and should be with a wind rating or profile, to withstand high winds and should be of a texture and color that harmonizes with the environment.

Section 8.9 Reply and Communication. The Design Review Committee shall reply to all submittals of all plans made in accordance herewith in writing within thirty (30) days after receipt and as set forth in any guidelines. Where prior written consent of approval of the Design Review Committee is required under the Declaration with respect to the making of an Improvement, such Improvements shall be conclusively deemed to have been made in compliance with this Declaration unless a notice of intention to commence legal action challenging and objection thereto is issued by the Design Review Committee within one hundred

eighty (180) days after completion of such Improvement. All communications and submittals shall be addressed to the Design Review Committee at such address as the chairman of the Design Review Committee shall hereafter designate in writing addressed and mailed to the Owners.

Section 8.10 Variations. The Design Review Committee may grant reasonable variations or adjustments from any conditions and restrictions imposed by this Declaration in order to overcome practical difficulties and unnecessary hardships arising by reason of the application of the conditions and restrictions contained in these covenants. Such variations or adjustments shall be granted only when the granting thereof shall not be materially detrimental or injurious to the other Lots nor deviate substantially from the general intent and purpose of this Declaration. In the event that the request for a variance is disapproved by the Design Review Committee, the applicant shall have the right of appeal to the Executive Board of the Association.

Section 8.11 Waivers. The approval or consent of the Design Review Committee, or appointed representative thereof, to any application for design approval shall not be deemed to constitute a waiver of any right to hold or deny approval or consent by the committee as to any application or other matters subsequently or additionally submitted for approval or consent.

Section 8.12 Liability. The Design Review Committee and the members thereof, as well as any representative of the committee designated to act on its behalf, shall not be liable in damages to any person submitting requests for approval or to any approval, or failure to approve or disapprove in regard to any matter within its jurisdiction under these covenants.

Section 8.13 Records. The Design Review Committee shall maintain written records of all applications submitted to it and of all actions taken by it with respect thereto. Such records shall be open and available for inspection by any interested affected party during reasonable hours of the business day.

Section 8.14 Enforcement. Enforcement of these covenants, restrictions, charges and other provisions, as amended, may be by any proceeding at law or in equity against any person or persons violating or attempting to violate any such provision. Upon recommendation from the Design Review Committee, the Association and any interested Owner shall have the right but not the obligation to institute, maintain and prosecute any such proceedings. In any action instituted or maintained under this section, the Association shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by the Court. Failure of the Association or of any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 8.15 Prosecution of Work after Approval. After approval of any proposed improvement to the Lot, the proposed improvement to the Lot shall be accomplished as diligently and promptly as possible and in complete conformity with the description of the proposed improvement to the Lot, any materials and documents submitted to the Design Review Committee in connection with the proposed improvement to the Lot, and any conditions imposed by the Design Review Committee. Failure to complete the proposed improvement to the Lot within twelve (12) months after the date of approval, or such shorter period as specified in writing by the Design Review Committee, or to complete the improvement to the Lot in

accordance with the description and materials and documents furnished to, and the conditions imposed by, the Design Review Committee, shall constitute a breach of these covenants and noncompliance with the requirements for approval of improvements to the Lot. If construction has not commenced within one (1) year of the approval, the approval shall be deemed to have terminated, and construction after that date shall require a new application pursuant to the terms of this Declaration.

ARTICLE 9

INSURANCE/CONDEMNATION

Section 9.1 Hazard Insurance on the Lots. Each Lot Owner may obtain hazard insurance covering loss, damage or destruction by fire or other casualty to the improvements, installed or made to their Lot and the other property of that Owner.

Section 9.2 Insurance to be Carried by the Association. The Association shall obtain and maintain in full force and effect, to the extent reasonably available and at all times, the insurance coverage set forth herein and as set forth in the Act, which insurance coverage shall include the following terms and shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado commencing not later than the time of the first conveyance of a Lot to a person other than Declarant, or the first occupancy of a Lot:

(a) All policies of insurance shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of a Lot Owner and shall provide that such policies may not be canceled or modified without at least thirty (30) days' prior written notice to the Association.

(b) All liability insurance shall be carried in blanket form, naming the Association, the Board, the manager or managing agent, if any, the officers of the Association, the Declarant, their successors and assigns as insureds.

Section 9.3 Hazard Insurance on the Common Elements. The Association may obtain adequate hazard insurance covering loss, damage or destruction by fire or other casualty to the improvements, installed or made to the Common Elements and the other property of the Association.

Section 9.4 Association Liability Insurance. The Association shall obtain adequate comprehensive policy of public liability and property damage liability insurance covering the Common Elements, in such limits as the Board may determine from time to time, but not in any amount less than One Million Dollars (\$1,000,000) per injury, per person and per occurrence, and in all cases covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association.

Section 9.5 Association Fidelity Insurance. The Association shall obtain adequate fidelity coverage or fidelity bonds to protect against dishonest acts on the parts of its officers, directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or

without compensation. The fidelity coverage or bonds should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, directors, trustees and employees.

Section 9.6 Association Worker's Compensation and Employer's Liability Insurance. The Association may obtain worker's compensation and employer's liability insurance and all other similar insurance with respect to its employees in the amounts and forms as may now or hereafter be required by law.

Section 9.7 Officers' and Directors' Personal Liability Insurance. The Association shall obtain officers' and directors' personal liability insurance to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as officers and directors on behalf of the Association.

Section 9.8 Other Association Insurance. The Association may obtain insurance against such other risks, of similar or dissimilar nature, including flood insurance, as it shall deem appropriate with respect to the Association responsibilities and duties.

Section 9.9 Insurance Premium. Except as assessed in proportion to risk, insurance premiums for insurance provided by the Association shall be a Common Expense to be included as a part of the annual assessments levied by the Association.

Section 9.10 Managing Agent Insurance. The manager or managing agent, if any, shall be adequately insured for the benefit of the Association and shall maintain and submit evidence of such coverage to the Association.

ARTICLE 10

GENERAL PROVISIONS

Section 10.1 Compliance and Enforcement.

(a) Every Owner and occupant of a Lot shall comply with the Governing Documents, and each Owner shall have the right to enforce the covenants and restrictions, as set forth in this Declaration.

(b) The Association, acting through the Board, may enforce all applicable provisions of this Declaration, and may impose sanctions for violation of the Governing Documents. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines, after notice and opportunity for a hearing, which fine shall constitute a lien upon the violator's Lot.

(ii) suspending the right to vote;

(iii) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(iv) requiring an Owner, at the Owner's expense, to remove any structure or Improvement on such Owner's Lot in violation of the Governing Documents and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(v) without liability to any person, the Association precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration from continuing or performing any further activities in the Community;

(vi) levying specific Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Governing Documents; and

(vii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

(c) In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibility, or otherwise fails to comply with the Governing Documents, the Association may record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a specific Assessment. The Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

(d) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, the prevailing party shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

(e) The decision of the Association to pursue enforcement action in any particular case shall be left to the Board's discretion, subject to the duty to exercise judgment and be reasonable, as provided for in this Declaration, and further restricted in that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action;

(ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) that it is not in the Association's best interests, based upon hardship, expense or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed as a waiver of the Association's right to enforce such provisions at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

Section 10.2 Severability. Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of this Declaration or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications.

Section 10.3 Term of Declaration. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity. The Declarant and Association agree that the Association shall not be dissolved without the written consent of the Board of County Commissioners of Douglas County.

Section 10.4 Amendment of Declaration, Map or Plat by Declarant. If Declarant shall determine that any amendments to this Declaration, the plat or the map shall be necessary in order to make non-material changes, such as for the correction of a technical, clerical or typographical error or clarification of a statement or for any changes to property not yet part of the Community, then, subject to the following sentence of this Section, Declarant shall have the right and power to make and execute any such amendments without obtaining the approval of any Lot Owners. Each such amendment shall be made, if at all, by Declarant prior to the expiration of seven (7) years from the date this Declaration is recorded. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to make or consent to an amendment under this section on behalf of each Lot Owner and holder of a security interest. Each deed, security interest, other evidence of obligation or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and consent to the reservation of, the power of Declarant to make, execute and record an amendment under this Section.

Section 10.5 Amendment of Declaration by Lot Owners. Except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of Declarant or others, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended or repealed at any time and from time to time upon approval of at least sixty-seven percent (67%) of the votes in the Association and with the written consent of the Association. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of Douglas County, State of Colorado of a certificate setting forth the amendment in full and certifying that the amendment has been approved as set forth above, and containing the written consent and approval of the Association.

Section 10.6 Amendment Required by Mortgage Agencies. Prior to seven (7) years after recording of this Declaration, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration which a holder of a first lien security interest, or FHA, VA, FHLMC, GNMA, FNMA or any similar entity authorized to insure, guarantee, make or

purchase mortgage loans requires to be amended or repealed may be amended or repealed by Declarant or the Association. Any such amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of Douglas County, State of Colorado of a certificate setting forth the amendment or repeal in full.

Section 10.7 Required Consent of Declarant to Amendment. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of any provision of this Declaration reserving development rights or for the benefit of the Declarant, or the assignees, shall not be effective unless Declarant, and its assignees, if any, have given written consent to such amendment or repeal, which consent may be evidenced by the execution by Declarant or its assignees of any certificate of amendment or repeal. The foregoing requirement for consent to any amendment or repeal shall terminate seven (7) years after the recording of this Declaration, or upon conveyance of one hundred percent (100%) of the Lots to Lot Owners, whichever occurs first.

Section 10.8 Required Consent of VA/FHA to Certain Amendments. While the Declarant is in control of the Association (i.e., Lot Owners other than Declarant have not yet elected a majority of the Executive Board), amendments to the Declaration, Articles of Incorporation or Bylaws of the Association must first be approved by the VA or FHA if either VA or FHA has approved the Planned Community for VA guaranteed or FHA insured loans. Further, the Association may not be merged or consolidated with another association without the prior written consent of the VA or FHA if either VA or FHA has approved the Planned Community for VA guaranteed or FHA insured loans.

Section 10.9 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

Section 10.10 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development of the Lots and of promoting and effectuating the fundamental concepts as set forth in the recitals of this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado.

Section 10.11 Singular Includes the Plural. Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by its duly authorized agent.

TIMBER POINTE, LLC,
a Colorado Limited Liability Company

By: _____
Authorized Agent

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Declaration was acknowledged before me on this _____ day of _____, 2007, by _____ as Authorized Agent of Timber Pointe, LLC, a Colorado Limited Liability Company.

Witness my hand and official seal.

Notary Public
My commission expires: _____

EXHIBIT A

DESCRIPTION OF REAL ESTATE

All of TIMBER POINTE FILING NO. 1, including Lots 1-12 inclusive, Tract A, and the private streets known or labeled as “Wild Timber Court” and “Wild Timber Drive,” pursuant to the final Plat recorded in the records of the Clerk and Recorder of Douglas County, Colorado.

Subject to the terms, conditions, obligations and provisions of documents and exceptions to the title of record including the following:

1. United States patent recorded October 11, 1972 in Book C at Page 202.
2. United States patent recorded October 11, 1972 in Book C at Page 211.
3. Deed recorded September 15, 1959 in Book 129 at Page 415.
4. Agreement recorded October 30, 1962 in Book 146 at Page 280
5. Agreement recorded September 10, 1963 in Book 152 at Page 423.
6. Recorded Plat.
7. Other documents of record.

EXHIBIT B

***OTHER PROPERTIES WHICH MAY
BE ADDED TO THE DECLARATION***

All or any part of property adjacent to the Real Estate, or located across a public street or access easement, within Douglas County, State of Colorado, provided the owners thereof consent.

AFTER RECORDING, RETURN TO:

ORTEN CAVANAGH RICHMOND AND HOLMES
1301 Washington Avenue
Suite 350
Golden, Colorado 80401