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AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS
FOR PITCHFORK

**AMENDED AND RESTATED
 DECLARATION OF PROTECTIVE COVENANTS
 FOR
 PITCHFORK**

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AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS
FOR
PITCHFORK

THIS AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS FOR PITCHFORK ("Declaration"), is made with an effective date of the _____ day of _____, 2002, by Coburn Development, Inc., a Colorado corporation and Pitchfork LLC, a Colorado limited liability company (collectively "Declarant").

Recitals

A. On August 21, 2000, Coburn Development, Inc. caused to be recorded a Final Plat of Pitchfork at Reception number 504415 in the offices of the Clerk and Recorder of Gunnison County, Colorado, and in conjunction therewith, on May 2, 2001, Coburn Development, Inc. recorded a Declaration of Protective Covenants For Pitchfork (the "Original Declaration") at Reception number 510378 in the offices of the Clerk and Recorder of Gunnison County, Colorado. The Original Declaration created a common interest community pursuant to the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101 et. seq. (the "Act") under the name of Pitchfork and which encumbers the real property situated in the County of Gunnison, State of Colorado more particularly described in Exhibit A attached hereto and incorporated herein by this reference ("Property").

B. The Original Declaration provides that it may be amended upon the written consent of the Owners holding 67% of the votes in the Association, and Declarant holds more than sixty-seven percent (67%) of the votes in the Association.

C. Declarant desires to amend and restate the Original Declaration.

Now, therefore, Declarant hereby amends and restates the Original Declaration by execution of this Declaration, for the purpose of creating the Pitchfork Master Association, Inc. and declares that the Property described in Exhibit A attached hereto and incorporated herein by this reference shall be held, sold and conveyed subject to the following easements, reservations, restrictions, liens, charges, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with title to the real property and be binding on all parties having any right, title or interest in the described real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof. **This Declaration shall amend and supercede the Original Declaration in its entirety.**

ARTICLE 1

STATEMENT OF PURPOSE

Section 1.1 - Subdivision of Property. The Property shall be subdivided and platted as "Pitchfork", which is a Common Interest Community including a planned community and condominiums. Declarant reserves the right to plat Lots and create Units within Pitchfork in one

or more phases, as shown on the Plat or Plats, or the Maps, as the case may be. Declarant reserves the right to create a maximum of 105 Lots and Units If Declarant exercises its right to phase the Common Interest Community:

A. Declarant shall not convey Lots or Units in the Common Interest Community, except those platted and subdivided on one or more recorded Plats, or as depicted on a Map;

B. Declarant shall have the right to plat and subdivide Lots or create Units in a subsequent phase or phases of the Common Interest Community by recording:

i. one or more supplemental Plats or Maps containing comparable information for the subsequent phase(s) as was contained on the original Plat or Map;

ii. one or more supplements to this Declaration amending Exhibit B to describe the allowed use of each Lot or Unit in a subsequent phase and to set forth any other provisions which apply to the Lots or Units in a subsequent phase;

C. No Assessments shall be levied against Lots or Units in a subsequent phase until the supplements to the Plat, Map and Declaration adding such Lots or Units to the Common Interest Community, and annexing such Lots or Units into the Master Association have been recorded in the office of the Clerk and Recorder of Gunnison County, Colorado.

Section 1.2 - Declaration of Covenants. Declarant hereby makes, declares and establishes that the Property shall be held and conveyed subject to the terms, covenants, conditions, restrictions and easements set forth herein which shall run with the Property and shall be binding upon all persons and entities having any right, title or interest in and to the Property or any part thereof, their heirs, successors and assigns and their tenants, employees, guests and invitees and shall inure to and be for the benefit of each Owner of a Lot or Unit within Pitchfork.

Section 1.3 - Statement of Purpose.

A. This Declaration is imposed for the benefit of all Owners and future owners of Lots and Units located within Pitchfork and to provide for the preservation of values of Pitchfork and to preserve the covenants, easements, restrictions, assessments and liens hereafter set forth, all of which are for the benefit of the Property and the Owners of Lots and Units.

B. Pitchfork will have relatively high density in order to provide more affordable family housing opportunities than are generally available in Mt. Crested Butte. In order to preserve the aesthetics, appearance, neatness, cleanliness and general desirability of dwellings within Pitchfork, and to provide for the general health, safety and welfare of the Members of the Association, this Declaration imposes covenants, easements and restrictions not ordinarily found in Gunnison County subdivisions regarding storage of snow and personal property, mandatory landscaping maintenance and other matters, which shall be strictly implemented and enforced by the Association.

ARTICLE 2

DEFINITIONS

The following terms and words shall have the definitions set forth in this Article 2:

Section 2.1 - "Act" shall mean the Colorado Common Interest Ownership Act, C.R.S. Section 38-33.3-101 et. seq.

Section 2.2 - "Agencies" shall mean the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD), the Department of Veterans Affairs (VA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by any of such entities.

Section 2.3 - "Allocated Interests" shall mean the Common Expense liability and votes in the Association, allocated to Lots and Units in the Common Interest Community, as set forth in Exhibit C.

Section 2.4 - "Articles of Incorporation" shall mean the Articles of Incorporation of the Association, as they may be amended from time to time.

Section 2.5 - "Assessments" shall mean the funds required to be paid by each Owner in payment of Common Expense liability, including regular monthly, quarterly or annual assessments, special assessments or default assessments levied pursuant to the Association Documents to provide funds for the Association.

Section 2.6 - "Association" shall mean Pitchfork Association, Inc., a Colorado non-profit corporation, or any successor thereof, charged with the powers, duties and obligations set forth herein.

Section 2.7 - "Association Documents" shall mean this Declaration and amendments thereto (and supplements thereto, if any), the Plat (and supplements thereto, if any), any Maps (and supplements thereto, if any), the Articles of Incorporation and Bylaws of the Association, the Design Guidelines and any procedures, or Rules adopted thereunder by the Association or the Design Review Board.

Section 2.8 - "Bylaws" shall mean the Bylaws of the Association, as they may be amended from time to time.

Section 2.9 - "Common Elements" shall mean any property within the Common Interest Community owned by the Association, or under any other arrangement whereby the Association or its Members have a right or obligation to use, or maintain, repair, replace or

restore such property.

Section 2.10 - "Common Expenses" shall mean the expenses or financial liabilities for the operation of the Common Interest Community. These expenses include:

- a. Expenses of administration, maintenance, repair or replacement of any Common Elements or property owned or maintained (under an easement, lease, license or contract) by the Association;
- b. Expenses declared to be Common Expenses by the Documents or by the Act;
- c. Expenses agreed upon as Common Expenses by the Executive Board;
- d. Such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held or maintained (under an easement, lease, license or contract) by the Association; and
- e. The costs and expenses imposed on the Association, benefitting fewer than all the Lots and Units, shall be a Common Expense, when assessed exclusively against those Lots or Units benefitted.

Section 2.11 - "Common Interest Community" shall mean all of the Property subdivided and platted by the Plat or depicted on a Map, including amendments thereto, filed in the records of Gunnison County, Colorado pertaining to Pitchfork.

Section 2.12 - "Cottage" shall mean a Single Family Dwelling whose Living Area does not exceed 1,000 square feet.

Section 2.13 - "Declarant" shall mean Coburn Development, Inc., a Colorado corporation, and Pitchfork, LLC, a Colorado limited liability company, and their successors and assigns.

Section 2.14 - "Design Guidelines" shall mean those guidelines, rules and regulations published from time to time by the Design Review Board upon approval by the Town. All Design Guidelines shall be consistent with the provisions of this Declaration.

Section 2.15 - "Design Review Board" shall mean the Design Review Board appointed by the Executive Board.

Section 2.16 - "Development Rights" shall mean the rights as defined by Section 38-33.3-103(14) of the Act reserved by the Declarant under Article 13 of this Declaration.

Section 2.17 - "Dwelling Unit" shall mean the residence constructed on each Lot and any replacement thereof, including any basement and attached Garage, and shall specifically

include a Single Family Residence, Townhome and condominium Unit.

Section 2.18 - "Eligible Mortgagee" shall mean the holder of a First Security Interest in a Lot, when the holder has notified the Association, in writing, of its name and address and that it holds a First Security Interest in a Lot. The notice must include the address of the Lot on which it has a security interest. This notice shall include a request that the Eligible Mortgagee be given the notices and other rights described in Article 14.

Section 2.19 - "First Security Interest" shall mean a Security Interest (as hereinafter defined) that has priority of record over all other recorded liens except those liens made superior by statute (such as general ad valorem tax liens and special assessments).

Section 2.20 - "Executive Board" shall mean the Board of Directors of the Association duly elected and acting according to the Articles of Incorporation and Bylaws of the Association.

Section 2.21 - "Garage" shall mean an accessory building or an accessory portion of a Single Family Residence designed for the storage of one or more motor vehicles and for incidental uses.

Section 2.22 - "Home Occupation" shall mean a use conducted entirely within a dwelling which is incidental and secondary to the use of the dwelling for dwelling purposes and which does not change the residential character thereof.

Section 2.23 - "Improvements" shall mean any exterior construction, structure, fixture, landscaping or facilities existing or to be placed on any property in the Common Interest Community, including but not limited to: buildings, outbuildings, patios, patio covers, awnings, solar collectors or panels, painting or other finish materials on any visible structure, additions, walkways, sprinkler systems, Garages, carports, driveways, fences, screening walls, retaining walls, stairs, decks, drainage facilities, landscaping (including any material change in slope, pitch or drainage pattern), hedges, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior light fixtures, poles, recreational or sporting equipment, signs, satellite dishes, antennas, exterior tanks, and exterior air conditioning, cooling, heating and water softening equipment.

Section 2.24 - "Landscaping" shall mean planted areas and plant materials, including trees, shrubs, lawns, flower beds and ground cover.

Section 2.25 - "Large House" shall mean a Single Family Dwelling whose Living Area does not exceed 2,000 square feet.

Section 2.26 - "Living Area" shall mean the floor area having a ceiling height in excess of five feet of a residence designed for interior occupancy and use by the inhabitants, but excluding basements (floor areas more than 4' below adjacent grade), Garages and areas designed for vehicle access and loading, balconies, porches, decks, patios, breezeways, hallways, corridors, stairways and service areas outside the living area or accommodation, enclosures and

uninhabited heating or mechanical equipment areas.

Section 2.27 - "Lot" shall mean the Lots as shown on the Plat or Plats of Pitchfork, other than Common Elements, and shall specifically include Townhome Lots.

Section 2.28 - "Map" shall mean a depiction in three dimensions of any Units in a Subassociation having horizontal boundaries, as required by the Act.

Section 2.29 - "Member" shall mean any person holding membership in the Association.

Section 2.30 - "Multi-Family Building" shall mean a duplex, triplex, 4-plex, 5-plex or 6-plex building subdivided into condominium Units or Townhomes pursuant to a Supplemental Declaration.

Section 2.31 - "Owner" shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot or Unit; provided, however, that prior to the first conveyance of any Lot or Unit after the recording of this Declaration, Owner shall mean Declarant unless Declarant has designated a successor in ownership of fee simple title to exercise the rights, duties and obligations of ownership.

Section 2.32 - "Perimeter Lots" shall mean Lots 4, 5, 6, 7, 8, 9, 10, 11, 12, 28, 29, 30, 31, 32, 33, 34 and 35.

Section 2.33 - "Permitted User" shall mean members of an Owner's family, or the Owner's agent, employee, guest, invitee, licensee or tenant, or the agent, employee, invitee, licensee or tenant of the Owner's tenant or family member.

Section 2.34 - "Person" shall mean a person, corporation, limited liability company, partnership, joint venture, association, fiduciary, trust or any other type of entity or designation by which title to any Lot or Unit is held.

Section 2.35 - "Plat" shall mean the plat for the Common Interest Community as filed in the records of Gunnison County, Colorado, and as such Plat may be amended, revised or supplemented from time to time, and shall specifically include Plats of the Townhomes.

Section 2.36 - "Property" shall mean and include the Property described on attached Exhibit A which is subject to this Declaration.

Section 2.37 - "Public Area" shall mean that part of the Property set aside for the public uses depicted or described on the Plat. Declarant shall convey to the Town title to the Public Areas.

Section 2.38 - "Rules" shall mean policies, rules, regulations and restrictions adopted and amended from time to time by the Executive Board pursuant to this Declaration for the

regulation' of the Common Interest Community.

Section 2.39 - "Security Interest" shall mean an interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in a Lot, Unit or the Association, and any other consensual lien or title retention contract intended as security for an obligation. For purposes of Article 14 hereof with respect to notice of cancellation or substantial modification of certain insurance policies, "Security Interest" shall also mean and refer to any executory land sales contract wherein the Administrator of Veterans Affairs, an officer of the United States of America, is the seller, whether such contract is recorded or not, and whether such contract is owned by the said Administrator or has been assigned by the Administrator and is owned by the Administrator's assignee, or a remote assignee, and the land records in the office of the Clerk and Recorder of Gunnison County, Colorado, show the Administrator as having the record title to the Lot or Unit.

Section 2.40 - "Single Family Residence" shall mean a detached building designed for or used as a dwelling exclusively as an independent housekeeping unit.

Section 2.41 - "Special Declarant Rights" shall mean rights reserved for the benefit of Declarant to: (1) complete Improvements indicated on the Plat; (2) exercise any Development Right; (3) maintain sales offices, management offices, signs advertising the Common Interest Community, and models; (4) use easements through the Common Elements for the purpose of making improvements within the Common Interest Community or within real estate that may be added to the Common Interest Community; (5) appoint or remove an officer of the Association or any Executive Board member during any period of Declarant control; (6) merge or consolidate a Common Interest Community of the same form or ownership; (7) appoint or remove any Design Review Board member; or (8) make a Subassociation subject to this Association.

Section 2.42 - "Small House" shall mean a Single Family Dwelling whose Living Area does not exceed 1,600 square feet.

Section 2.43 - "Subassociation" shall mean the Pitchfork Townhomes Association, Inc. and the Lazy S Condominiums Association, Inc. Such Subassociations shall have jurisdiction over the properties described in the Declaration of Covenants, Conditions and Restrictions for Pitchfork Townhomes, as amended from time to time, and in the Declaration Establishing Lazy S Condominiums, as amended from time to time.

Section 2.44 - "Supplemental Declaration" shall mean any Declaration of Covenants, Conditions and Restrictions creating or affecting any Subassociation, or any portion thereof, which may be hereafter recorded by Declarant in accordance with Section 13.1. The term "Supplemental Declaration" does not include this Declaration. Any Supplemental Declaration shall be subordinate at all times to this Declaration and shall be interpreted in a manner

consistent with this Declaration.

Section 2.45 - "Town" shall mean the Town of Mt. Crested Butte, Colorado.

Section 2.46 - "Townhome" shall mean those Dwelling Units constructed or to be constructed on Lots 2, 3, 4, 5, 6, 29, 33, 35, 36, 42, 43, 44 and 50, Pitchfork, Gunnison County, Colorado.

Section 2.47 - "Unit" shall mean the physical portion of the Common Interest Community having horizontal boundaries, other than Common Elements, designated for separate ownership or occupancy, the boundaries of which are depicted on a Map.

ARTICLE 3

PITCHFORK ASSOCIATION, INC.

Section 3.1 - Establishment of Association. Pitchfork Association, Inc., a Colorado non-profit corporation, shall be governed by and shall exercise all of the duties, privileges, obligations and powers set forth in the Association Documents and the Act. In the event of any conflict between the documents or procedures governing the operation of the Subassociations and the documents or procedures governing the operation of the Association, the documents or procedures governing the operation of the Association shall control.

Section 3.2 - Executive Board. The Executive Board of the Association shall manage and set policy for the Association. Except as otherwise provided in this Declaration or the Bylaws, the Executive Board may act in all instances on behalf of the Association. The initial Executive Board shall have three (3) directors. Except for members of the Executive Board appointed by the Declarant during the Period of Declarant Control, all members of the Executive Board shall be Members of the Association, or in the event that a Member is an entity other than a natural person, such member of the Executive Board shall be an authorized representative of such entity Member. Subject to the provisions of Section 3.5 below, during the Period of Declarant Control, the Executive Board shall consist of three (3) directors, none of whom need be Members of the Association. At such time as the Declarant conveys fifty percent (50%) of the Units that may be created, the number of directors on the executive Board shall increase to five (5). Upon expiration of the Period of Declarant Control, the Members shall elect all five directors as follows: the Owners of Single Family Residence Lots shall elect two members to the Executive Board, one of whom shall serve for an initial term of one (1) year, and one of whom shall serve for an initial term of two (2) years; the Owners of Units in Multi-Family Buildings shall elect two members to the Executive Board, one of whom shall serve for an initial term of one (1) year, and one of whom shall serve for an initial term of two (2) years; and all Members shall elect one "At Large" member to the Executive Board who shall serve for a term of one (1) year. After the initial terms, all members of the Executive Board, except the At Large member, shall serve for a terms of two (2) years. The At Large member shall always serve for a term of one (1) year.

Section 3.3 - Owners' Easements. Every Owner shall have a nonexclusive right and easement for the purpose of access to their Lots and Units and for use for all other purposes allowed by this Declaration, in and to the Common Elements, and such easement shall be appurtenant to and shall pass with the title to every Lot and Unit. Any Owner may delegate their right of enjoyment to the Common Elements and facilities to the members of their family, their Permitted Users, or contract purchasers who reside on their Lot or in their Unit.

Section 3.4 - The Association's Rights. The rights of each Owner shall be subject to the Development Rights and Special Declarant Rights of the Declarant reserved herein and the following rights of the Association:

A. To borrow money to improve the Common Elements and to mortgage said property as security for any such loan; provided, however, that the Association may not subject any portion of the Common Elements to a Security Interest unless such is approved by Members casting at least sixty-seven percent (67%) of the votes in the Association, including sixty-seven percent (67%) of the votes allocated to Lots and Units not owned by the Declarant.

B. To convey or dedicate all or any part of the Common Elements to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members entitled to cast at least sixty-seven percent (67%) of the votes in the Association, including sixty-seven percent (67%) of the votes allocated to Lots and Units not owned by the Declarant, and unless written notice of the proposed agreement and the proposed dedication or transfer is sent to every Member at least thirty (30) days in advance of any action taken. The granting of permits, licenses and easements for public utilities or for other purposes consistent with the intended use of such Common Elements shall not be deemed a transfer within the meaning of this clause.

C. To adopt and distribute Rules with which each Owner and their Permitted Users shall strictly comply.

D. To suspend the voting rights of a Member for any period during which any assessment remains unpaid and, following notice and hearing, during any period of any other violation of the Association Documents and for up to sixty (60) days thereafter.

E. To take such steps as are reasonably necessary to protect the Common Elements against foreclosure.

F. To enter into, make, perform or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, for the use of Common Elements by Owners and Permitted Users for any purpose(s) the Executive Board may deem to be useful, beneficial or otherwise appropriate.

G. To close or limit the use of the Common Elements temporarily while maintaining, repairing and making replacements in the Common Elements, or permanently if approved by a majority vote of Members present in person or by proxy at a meeting duly held.

Section 3.5 - Powers of the Executive Board. Except for those matters expressly reserved to the Members as provided in the Association Documents and the Act and the Colorado Revised Nonprofit Corporation Act, the Executive Board may act in all instances on behalf of the Association, to:

- A. Adopt and amend bylaws and rules, regulations and policies;
- B. Determine Common Expenses and adopt and amend budgets for revenues, expenditures and reserves and collect Assessments;
- C. Hire and terminate managing agents and other employees, agents and independent contractors;
- D. Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting the Common Interest Community;
- E. Make contracts and incur liabilities;
- F. Regulate the use, maintenance, repair, replacement and modification of Common Elements;
- G. Cause additional improvements to be made as a part of the Common Elements;
- H. Acquire, hold, encumber and convey in the name of the Association any right, title or interest in real or personal property, except that Common Elements may be conveyed or subjected to a security interest only if (a) Members entitled to cast at least sixty-seven percent (67%) of the votes agree to that action, (b) the provisions of Article 17 are followed with respect to approval of First Mortgagees, and (c) if all Owners of Units to which any Limited Common Element is allocated agree in order to convey that Limited Common Element or subject it to a security interest;
- I. Grant easements, leases, licenses and concessions through or over the Common Elements;
- J. Impose and receive any payments, fees or charges for the use, rental or operation of the General Common Elements;
- K. Impose charges (including without limitation, late charges and default interest) for late payment of Assessments, recover reasonable attorney fees and other legal costs for collection of Assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated, and after notice and opportunity to be heard, levy reasonable fines for violations of provisions of the Association Documents or otherwise suspend other membership privileges (except that notice and opportunity to be heard shall not be required before suspension of membership privileges for failure to pay Assessments within thirty (30)

days after they become due);

L. Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid Assessments;

M. Provide for the indemnification of its officers and Executive Board and maintain directors' and officers' liability insurance;

N. Exercise any other powers conferred by the Declaration or Association Bylaws;

O. Exercise all other powers that may be exercised in this state by legal entities of the same type as the Association, including without limitation, those powers specified by the Colorado Revised Nonprofit Corporation Act; and

P. Exercise any other powers necessary and proper for the governance and operation of the Association.

Section 3.6 - Declarant Control. Declarant shall be entitled to appoint and remove the members of the Executive Board and officers of the Association during the Period of Declarant Control. The "Period of Declarant Control" begins with the appointment of the initial Executive Board and continues until the earlier of: (a) ten (10) years from the date of recording the Declaration; (b) sixty (60) days after Declarant conveys seventy-five percent (75%) of the Lots and Units that may be created to Owners other than Declarant; (c) two (2) years after the last conveyance of a Lot or Unit by Declarant in the ordinary course of business; or (d) two (2) years after the right to add new Lots or Units was last exercised. Declarant may voluntarily relinquish such power evidenced by a notice executed by Declarant and recorded with the Gunnison County Clerk and Recorder but, in such event, Declarant may at its option require that specified actions of the Association or the Executive Board as described in the recorded notice, during the period Declarant would otherwise be entitled to appoint and remove directors and officers, be approved by Declarant before they become effective. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots and Units that may be created to Owners other than Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Lots and Units that may be created to Owners other than a Declarant, not less than thirty-three and one third percent (33 1/3%) of the members of the Executive Board shall be elected by Owners other than the Declarant. Until the expiration of the Period of Declarant Control, those members of the Executive Board elected by the Members other than Declarant shall be elected by all Members of the Association without regard to ownership of Single Family Residence Lots or Units in Multi-Family Buildings.

Section 3.7 - Delivery of Documents by Declarant. Within sixty (60) days after the Owners other than the Declarant elect a majority of the members of the Executive Board, the Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by the Declarant, including, without limitation, the following items:

A. The original or a certified copy of the recorded Declaration, as amended, the Articles of Incorporation, Bylaws, minute books, other books and records, and any Rules which may have been promulgated;

B. An accounting for Association funds and audited financial statements from the date the Association received funds and ending on the date the period of Declarant control ends in accordance with Section 38-33.3-303(9)(b) of the Act;

C. The Association funds, books and records;

D. All of the tangible personal property that has been represented by the Declarant to be the property of the Association or that is necessary for and has been used exclusively in the operation and enjoyment of the Common Elements;

E. A copy, for the nonexclusive use of the Association, of any plans and specifications used in the construction of improvements in the Common Interest Community;

F. All insurance policies then in force in which the Owners, the Association, or its directors and officers are named as insured persons;

G. Any other permits issued by governmental bodies applicable to the Common Interest Community and which are currently in force or which were issued within one (1) year prior to the date on which Owners other than the Declarant took control of the Association;

H. Written warranties of any contractor, subcontractors, suppliers and manufacturers that are still effective;

I. A roster of Owners and Eligible Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;

J. Employment contracts in which the Association is a contracting party; and

K. Any service contract in which the Association is a contracting party or in which the Association or the Owners have any obligation to pay a fee to the person performing the services.

Section 3.8 - Management Agreements and Other Contracts. Any agreement for professional management of the Association's business or other contract providing for services of the Declarant shall have a maximum term of three (3) years and any such agreement shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon not more than ninety (90) day's prior written notice.

Section 3.9 - Members. Each Owner shall be a Member of the Association. No Owner, whether one or more persons or entities, shall have more than one membership per Lot or Unit owned by such Owner, but all persons owning each Lot or Unit shall be entitled to the rights of

membership and the use and enjoyment appurtenant to the ownership of each Lot or Unit, except that votes allocated to such Lot or Unit shall be exercised as provided herein and in any non-conflicting provisions of the Bylaws.

Section 3.10 - Termination of Membership. The right of membership in the Association and the status as a Member shall terminate upon the termination of status as an Owner of a Lot or Unit. Upon conveyance, sale or assignment of the Owner's interest, the selling Owner shall be relieved of liability for assessments from and after the date of such sale or conveyance; provided, however, that no such sale or conveyance of any ownership shall relieve an Owner of liability arising prior to the date of such sale or conveyance.

Section 3.11 - Share of Common Expenses; Voting Rights. The Owner of each Lot or Unit shall be liable for payment of assessments and entitled to votes in the Association according to the provisions of attached Exhibit C. The vote for each Lot or Unit shall be exercised by the Owner and when more than one person or entity holds an interest in a Lot or Unit the vote for the Lot or Unit shall be exercised as the Owners may determine among themselves, but the vote for the Lot or Unit shall be cast by only one person.

Section 3.12 - Compliance with Documents. Each Owner and Permitted User shall abide by and have the benefit of the provisions, covenants, conditions and restrictions contained in the Association Documents.

Section 3.13 - Rules. The Executive Board shall from time to time adopt, amend and repeal Rules not inconsistent with this Declaration to be known as the "Pitchfork Rules and Regulations" governing, among other things, and without limitation:

A. The use of any property owned or controlled by the Association or subject to this Declaration.

B. The use of all easements shown on the Plat and described herein, except that use of such easements shall not conflict with or restrict the uses of easements as depicted and described on the Plat.

C. Repair, maintenance and upkeep of all property owned by the Association and any property under the jurisdiction of the Association.

D. Standards for the repair, maintenance, upkeep and use of all Lots, Units and all Improvements, grounds and landscaping situate upon such Lots within the Common Interest Community.

E. Times when parking shall be prohibited in parking areas to facilitate snow removal and maintenance.

F. The right to regulate window coverings in Dwelling Units in compliance with the Design Guidelines or Rules.

G. Any other matter set forth in the Association Documents, authorized by law or authorized by the Executive Board.

H. Any other matter relating to the Common Interest Community or the use of any Lot or Unit not inconsistent with this Declaration.

Section 3.14 - Fines. After notice and an opportunity to be heard, the Executive Board shall have the power to levy reasonable fines for any violation of the Association Documents. The Executive Board shall have the right to require any Owner or Permitted User who has violated any provision of the Association Documents to deposit and maintain funds with the Executive Board as security for the payment of fines imposed and/or expenses incurred as a result of such past or any future violation(s).

ARTICLE 4

RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY OF LOTS AND UNITS

Section 4.1 - Use of Lots and Units.

All of the Lots and Units shall be held, conveyed, used, improved, occupied, owned, resided upon and secured subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration. These restrictions are general in nature and the Executive Board shall have the power to adopt, amend, supplement, repeal and enforce more specific and restrictive use restrictions, Design Guidelines and Rules as the Executive Board deems to be reasonable and necessary to carry out the intent of this Declaration. No improper, offensive or unlawful use may be made of the Property. Owners and Owner's Agents shall comply with and conform to all applicable laws and regulations of the United States, the State of Colorado and all other governmental ordinances, rules and regulations; violations thereof shall be a breach of this Declaration, subject to enforcement by the Association. Except as may be approved in writing by the Executive Board, nothing shall be done or kept which may result in a material increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

A. Lots shall be improved as described on attached Exhibit B and, except as otherwise provided on Exhibit B, used exclusively for residential purposes. No commercial or business enterprise of any nature shall be allowed within the Common Interest Community, except:

- i. As set forth on attached Exhibit B; and
- ii. One Home Occupation is permitted per Dwelling Unit, subject to the following restrictions: any noise or activity related to such Home Occupation shall not interfere with the quiet and dignity of the neighborhood and no persons other than the primary dwelling occupants and one employee shall be employed in such Home Occupation; the existence or operation of the Home Occupation is not apparent or detectable by sight, sound, or smell from