

**PARTY WALL AGREEMENT AND  
DECLARATION OF  
COVENANTS, CONDITIONS AND RESERVATIONS FOR DUPLEX RESIDENCE  
LOCATED ON LOTS 11A AND 11B, WILLOW RANCH SUBDIVISION, CITY OF  
RIFLE, FILING NO. 2, GARFIELD COUNTY, COLORADO**

RECITALS

A. Willow Ranch Development, LLC, a Colorado limited liability company ("Declarant"), is the owner of certain real property located in the Rifle, Colorado, described as the Willow Ranch Subdivision, a replat of Lots 1, 2, 3A and 3B, Chevy Addition to the City of Rifle, County of Garfield, State of Colorado, according to the final plat (the "Plat") of Willow Ranch Subdivision as recorded at Reception No. 706367 on September 7, 2006 in the records of the Garfield County Clerk and Recorder.

B. In accordance with previously recorded documents affecting the Property, Declarant has subdivided Lot 11 in Willow Ranch Subdivision into 2 separate lots which are designated as 191 Willow Circle and 193 Willow Circle. Declarant has constructed a duplex building on Lot 11 which is designed and intended for use as two residential dwelling units. The addresses of the dwelling units are 191 Willow Circle, Rifle, Colorado (Lot 11B which is also called the West Unit) and 193 Willow Circle, Rifle, Colorado (Lot 11A which is also called the East Unit).

C. The post office address for both dwelling units on the Property will be in Rifle, Colorado. Either or both of these dwelling units are sometimes referred to herein separately as a "unit" or collectively as the "units." However, the dwelling unit on Lot 11A is referred to as the East Unit, and the dwelling unit on Lot 11B is referred to as the West Unit.

D. Declarant desires to and does hereby establish a plan for the ownership of the above real property by establishing separate ownership and rights and obligations related to and appurtenant to the East Unit and the West Unit as identified on the Plat.

DECLARATION

Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, reservations, limitations and obligations shall be deemed to run with the land described herein, shall be a burden and a benefit to Declarant, his personal representatives, heirs, successors and assigns and any person acquiring or owning an interest in the real property described above and the improvements built thereon, their grantees, personal representatives, heirs, successors and assigns.

1. Definitions. Unless the context shall expressly provide otherwise, the following words and phrases shall have the following meanings:

- 1.1 "The Properties" means Lot 11A located on the above-described real estate with a street address of 193 Willow Circle, Rifle, Colorado, and Lot 11B located on the above-described real estate with a street address of 191 Willow Circle, Rifle, Colorado.
- 1.2 "Parcel" or "Property" means the real estate identified as Lot 11A or Lot 11B as described above with all appurtenances.
- 1.3 "Duplex" or "Building" means the entire building structure containing two adjoining dwelling units constructed upon the Parcels.
- 1.4 "Unit" means either the East Unit or the West Unit as described above.
- 1.5 "Owner" means a person, persons, firm, corporation, partnership or association, or other legal entity, or any combination thereof, owning an interest in either the East Unit or the West Unit.
- 1.6 "Plat" means the Amended Final Plat of Willow Ranch Subdivision, City of Rifle, County of Garfield, State of Colorado as recorded at Reception No. 739544 in the records of Garfield County, Colorado.
- 1.7 "Assessment" means any periodic or one time charge to cover the cost of any expense or charge that becomes due and owing by virtue of this Party Wall Agreement and Declaration (the "Party Wall Declaration").

## 2. Description and Reservation.

2.1 Every contract of Sale, Deed, Lease, Mortgage, Trust Deed, Will or other instrument shall legally describe the East Unit or the West Unit as follows:

**East Unit:** Lot 11A, Willow Ranch Subdivision, City of Rifle, Filing No. 2, a resubdivision of Parcel A and Parcel B according to the Amended Final Plat recorded at Reception No. 739544 in the records of Garfield County, Colorado.

**West Unit:** Lot 11B, Willow Ranch Subdivision, City of Rifle, Filing No. 2, a resubdivision of Parcel A and Parcel B according to the Amended Final Plat recorded at Reception No. 739544 in the records of Garfield County, Colorado.

2.2 Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect the Units and all appurtenant rights, benefits and burdens thereto as created by the provisions of this Declaration, and each such description shall be so construed.

## 3. Property Division.

3.1 Declarant hereby establishes this plan for the subdivision of Lot 11 into Lot 11A and Lot 11B. Lot 11A contains the East Unit, and Lot 11B contains the West Unit. Each of these units shall constitute a separate dwelling unit to be owned in fee simple.

3.2 The parties, if more than one, having the ownership of each Unit shall agree among themselves how to share the rights and obligations of such ownership. However, if a corporation, partnership, association or other legal entity shall become an owner or if there is concurrent ownership of a Unit, then such entity or concurrent Owners shall from time to time designate one individual who shall represent such entity or concurrent Owners in all matters concerning all rights and obligations pursuant to this Declaration.

3.3 Any such entity or concurrent Owners (the "Subject Owner") shall give written notice to the other Owner designating the individual to act on its or their behalf and such notice shall be effective until revoked in writing by such entity or Owners. In the absence of such designation, the other Owner may treat any officer, partner, or other representative of the Subject Owner as the authorized representative of the Subject Owner. Any act or omission by such designated individual shall be binding on the entity or Owners having designated him in favor of the other Owner or any person who may rely thereon.

3.4 Each Unit shall be considered a separate parcel of real property and shall be separately assessed and taxed.

3.5 Both Units shall be subject to the easements noted on the Plat and those set forth herein.

3.6 In the event both Units are ever owned by the same entities or persons, the doctrine of merger shall not apply.

4. Encroachments. If any portion of the improvements associated with either of the Units now or hereafter encroaches upon the other Parcel as a result of the construction of any building, or if any such encroachment shall occur hereafter as a result of settling or movement of any building, a valid easement for the encroachment and the maintenance of the same, so long as the building stands, shall exist. In the event any building shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings and then rebuilt, encroachments of parts of the building on the other parcel, due to such rebuilding, shall be permitted, so long as such encroachments are of no greater extent than those previously existing, and valid easements for such encroachments and the maintenance thereof shall exist so long as the building shall stand.

5. Party Wall.

5.1 The walls which constitute the common boundary separating the East Unit from the West Unit, and the underlying footings as well as the portion of roof over such wall and their respective supporting members are collectively referred to herein as the "Party Wall."

5.2 To the extent not inconsistent with this Declaration, the general rules of law regarding party walls and liability for damage due to negligence, willful acts or omissions shall apply to the Party Wall.

5.3 The Owners of each Unit shall have a perpetual easement in and to that part of the other Unit on which the Party Wall is located, for party wall purposes, including mutual support, maintenance, repair and inspection. In the event of damage to or destruction of the Party Wall from any cause, the Owners, at their joint expense, shall repair or rebuild said Party Wall. Each Owner shall have the right to the full use of any Party Wall so repaired and rebuilt. Notwithstanding anything contained above to the contrary, if the negligence, willful act or omission of any Owner or his or her family, or agent or invites shall cause damage to or destruction of the Party Wall, such Owner shall bear the entire cost of repair or reconstruction. An Owner who by his negligent or willful act causes the Party Wall to be exposed to the elements shall bear the full cost of furnishing the necessary protection against such elements as well as the cost of repairing any degradation and damage to the building or its components.

6. Landscaping, Service Facilities and Parking.

6.1 The Owners from time to time shall undertake such landscaping and general outdoor improvements on their respective Parcels as they may mutually and unanimously deem proper for the harmonious improvement of both Units in a common theme. Each Owner shall be solely responsible for all expenses, liabilities and general upkeep responsibilities with respect to such landscaping and outdoor improvements on the Unit of that Owner. The Owner of one Unit shall not unreasonably damage the value of the other Unit such as by shoddy upkeep outside, but both Owners shall make all reasonable efforts to preserve a harmonious common appearance of the Properties. Each Owner shall bear the entire cost and responsibility for the maintenance of landscaping on their respective Parcels.

6.2 A nonexclusive easement in favor of providers who deliver the utility services described below is hereby granted over, under and across both of the Parcels for the purpose of installing, maintaining, inspecting, repairing and replacing utility service lines and facilities which service the East Unit and the West Unit. This shall include, without limitation, water and sewer, electricity, natural gas, cable television and telephone services.

6.3 Common utility or service connections or lines, common facilities or other equipment and property located in or on either of the Units or Parcels, but used in common with the other Unit, shall be owned as tenants in common of equal undivided

one-half interests by the Owners of each Unit. Except for any expense or liability caused through the negligence or willful act of any Owner or his or her family or agent or invites, which shall be borne solely by such Owner, all expenses and liabilities concerned with such connections or lines such property shall be shared proportionately. However, the maintenance and repair of such connections or lines shall be performed by the Willow Ranch Home Owners Association (the "Association"). The Owner of either Parcel shall have a perpetual easement in and to that part of the other Parcel as is reasonably necessary for purposes of maintenance, repair and inspection.

6.4 Sewer waste lines for both Units are joined either in the crawl space of the duplex building or to a common sewer service pipe in the front of the duplex building and then extended to the sewer main in the street by means of one common service pipe. Each Unit receives separate water service and is separately metered. The water meters for each of the Units are located in a single dual meter pit near the sidewalk in front of the duplex building within the existing utility easement area. Each Owner grants to the other Owner, to the Willow Ranch Home Owners Association, and to the water and sewer service utility providers a nonexclusive easement across and under such Owner's Parcel for purpose of inspecting, maintaining, repairing and replacing all of these service facilities.

6.5 Each Owner shall have the right to the use of parking areas located on each Owner's respective Parcel. No Owner or his or her tenants or invitees shall be permitted to use the other Owner's parking areas. Snow removal and plowing may become necessary from time to time, and the expense for these services shall be borne by each Owner unless agreed otherwise. Each Owner shall be responsible for the maintenance and repair of decks and walkways located on his or her Parcel.

7. Alteration, Maintenance and Repairs.

7.1 In addition to maintenance costs as provided for in Section 8, each Owner shall pay his or her equal share of the cost of providing exterior maintenance and exterior repair upon the Units and all portions of the Parcel upon which each Unit is located including, but not limited to, the exterior and the roof covering the Units. However, if the condition requiring repair only affects one of the Units, the Owner of that Unit shall bear the entire cost thereof. Repair, replacement or cleaning of exterior window glass shall be considered interior maintenance. If the need for repair is caused through the negligence or willful act of any Owner or his or her family or tenants or invitee, such Owner shall bear the entire cost of such repair or reconstruction (to the extent that such damage is not covered by insurance). To the extent that discernable differences might otherwise exist, both Units must be painted or undergo exterior modifications at the same time and with the same materials. No exterior modifications shall be made to the character, shape or surfaces of the building without the approval of the Design Review Committee of the Willow Ranch Homeowners Association. All repairs to the portion of the respective roofs at the joinder point shall be borne equally by the Owners irrespective of which Unit, or which side of the Party Wall or the actual point of damage or failure necessitating the repair is located.

7.2 Common utility lines and service connections running from the streets to the Units shall be maintained and repaired by the Association as provided in Section 6.3. However, each Owner shall be solely responsible for maintenance and repair of the inside of his or her Unit including fixtures and improvements and all utility lines and equipment located therein and serving such Unit only. In performing such maintenance and repair, or in improving or altering his or her Unit, no Owner shall do any act or work which impairs the structural soundness of either Unit or the Party Wall or which interferes with any easement granted or reserved herein.

7.3 No Owner shall make or suffer any structural or design change (including a color scheme change), either permanent or temporary and of any type or nature whatsoever to the exterior of his or her Unit or construct any additional exterior building structure of any type or nature whatsoever upon any part of his or her Unit without first obtaining the prior written consent thereto from the other Owner, such consent not to be unreasonably withheld. In case of damage or destruction of any Unit or any part thereof by any cause whatsoever, the Owner of such Unit shall cause with due diligence the Unit to be repaired and restored, applying the proceeds of insurance, if any, for that purpose. Such Unit shall be restored to a condition comparable to that prior to the damage and in a harmonious manner to promote the common theme of both Units.

7.4 The costs of maintaining, repairing or replacing the Party Wall and any other structural elements affecting both Units including, without limitation, the roof covering the Units, shall be borne by both Unit Owners equally. Both of the Unit Owners shall agree in writing as to the scope and nature of any such maintenance, repairs or replacements. However, any such costs that are caused by the negligence or willful act of one Unit Owner shall be borne entirely by that Unit Owner.

7.5 In the event that one Unit Owner believes maintenance, repair or replacement work is necessary for the Party Wall, the roof covering the Units, or any other structural element affecting both Units, and such Unit Owner fails to reach a written agreement with the other Unit Owner concerning the scope and nature of the proposed work, the Unit Owner shall initiate steps under Section 14 to resolve the issues.

7.6 In the event of an emergency, the acting Unit Owner may proceed with all necessary emergency maintenance, repair, or replacement of the Duplex without authorization from the other Unit Owner. However, the acting Unit Owner may request reimbursement from the other Unit Owner only if he or she has made a good faith attempt to contact the other Unit Owner at his or her email address and phone number of record. The acting Unit Owner shall collect payment by written request to the other Unit Owner, which payment shall be due within ten (10) days of such request.

## 8. Allocation of Expenses.

8.1 In any written agreement authorizing any maintenance, repair, or replacement to the Units, which cost for such maintenance, repair, or replacement is to be shared equally between the Unit Owners, the parties shall determine the method of payment. For example, this could include such methods as the following: (a) the Parties will each pay ½ of the costs incurred directly to the contractor; or (b) one Unit Owner will act as Agent and pay the sums due in full to the contractor and collect ½ of the costs incurred from the other Unit Owner. In the event, the Parties select option (b) above, the Agent shall request reimbursement in writing, and the non-Agent Unit Owner shall pay said sums in full within ten (10) days of such request.

8.2 To the extent possible, the costs and expenses of common maintenance and repair shall be determined by obtaining competing bids and pricing.

9. Mechanic's Liens: Indemnification.

9.1 Except for items incurred as a common expense as provided for herein, if any Owner shall cause any material to be furnished to his or her Unit or any labor to be performed therein or thereon, the other Owner shall not under any circumstances be liable for the payment of any expense incurred or for the value of any work done or material furnished. All such work shall be at the expense of the Owner causing it to be done, and such Owner shall be solely responsible to contractors, laborers, material men and other persons furnishing labor or materials to his or her Unit or any improvements therein or thereon. Nothing herein contained shall authorize either Owner or any person dealing through, with or under either Owner to charge the Unit of the other Owner with any mechanic's lien or other lien or encumbrance whatever. On the contrary (and notice is hereby given), the right and power to charge any lien or encumbrance of any kind against one Owner or against one Owner's Unit for work done or materials furnished to the other Owner's Unit is hereby expressly denied.

9.2 Except as provided below, if, because of any act or omission of any Owner, any mechanic's or other lien or order for the payment of money shall be filed against the other Owner's Unit or any improvements therein or thereon, or against any other Owner (whether or not such lien or order is valid or enforceable as such), the Owner whose act or omission forms the basis for such lien or order shall at his or her own cost and expense cause the same to be canceled and discharged of record or bonded by a surety company reasonably adaptable to such other Owner, within twenty (20) days after the date of filing thereof, and further shall indemnify and save the other Owner harmless from and against any and all costs, expenses, claims, losses or damages, including reasonable attorney's fees resulting therefrom.

10. Insurance.

10.1 Each Owner shall keep his Unit and all fixtures therein insured against loss or damage by fire and extended coverage perils (including vandalism and malicious mischief) for the maximum replacement value thereof.

10.2 Each Owner shall provide and keep in force general public liability and property damage insurance against claims for bodily injury or death or property damage occurring in, on or upon his or her Unit and the improvements thereon in a limit of not less than \$300,000.00 in respect of bodily injury or death to any number of persons arising out of one accident or disaster, or for damage to property. If higher limits shall at any time be customary to protect against possible tort liability, such higher limits shall be carried and each owner shall name the other Owner as an additional insured party under such policy.

11. Destruction of Improvements on the Units.

11.1 In the event of damage or destruction to the Units by fire or other disaster, the insurance proceeds will be disbursed in the manner required by the insurance carriers. The Owners shall then promptly authorize the necessary repair and reconstruction work and the insurance proceeds will be applied to defray the cost thereof. "Repair and reconstruction" of the Units, as used herein, means restoring the improvements to substantially the same condition in which they existed prior to the damage with such Unit having the same boundaries as before.

11.2 If the insurance proceeds are insufficient to repair and reconstruct any damaged Unit, such damage or destruction shall be promptly repaired and reconstructed by the Owners using the insurance proceeds and the proceeds of a special assessment against the Owners of the damaged Units. Any such assessments shall be equal to the amount by which the cost of reconstruction or repair of the Units exceeds the sum of the insurance proceeds allocable to such Units. Such assessments shall be due and payable not sooner than thirty (30) days after written notice thereof. The special assessment provided for herein shall be a debt of each Owner and a lien on his or her Unit and the improvements hereon and may be enforced and collected by foreclosure proceedings in the District Courts.

11.3 Notwithstanding the above, the Owners and first mortgagees of any or all of the destroyed or damaged Units may agree that the destroyed or damaged Units shall forthwith be demolished and all debris and rubble caused by such demolition be removed. The cost of such demolition work shall be paid for by any and all insurance proceeds available. Any excess insurance proceeds shall then be disbursed to such Owners and their first mortgagees jointly.

12. Right to Lien.

12.1 If an Owner, at any time, shall neglect or refuse to perform or pay his or her share of any obligation required hereunder, the other Owner may, but shall not be obligated to, after twenty (20) days written notice unless the circumstances required immediate action, make such payment or, on behalf of such other Owner, expend such sum as may be necessary to perform such obligation including, but not limited to, the payment of any insurance premiums required hereunder or the undertaking of any work required hereunder for repair, restoration or maintenance, and such other Owner shall have an easement in and to that part of such defaulting Owner's Unit as is reasonably necessary for such repair, restoration or maintenance.

12.2 All sums so paid or expended by an Owner, along with interest thereon at a percentage rate equal to the "prime rate" as quoted from time to time in the Wall Street Journal (the interest rate shall be adjusted and calculated on a monthly basis), shall be payable by the Owner so failing to perform (the "defaulting Owner") from the date of such payment or expenditures by the other Owner until paid in full.

12.3 All sums so demanded but unpaid by the defaulting Owner shall constitute a lien on the Unit of the defaulting Owner in favor of the other Owner prior to all other liens and encumbrances, except: (i) liens for taxes and special assessments; and (ii) the lien of any first mortgage or first deed of trust of record encumbering such Unit; and any lien powers vested in the Willow Ranch Home Owners Association. The lien shall attach from the date when the unpaid sum shall become due and may be foreclosed in like manner as a mortgage on real property upon the recording of a notice or claim thereof executed by the non-defaulting Owner setting forth the amount of the unpaid indebtedness, the name of the defaulting Owner, and a description of the Unit. The non-defaulting owner may collect any such amount due either through a foreclosure of the lien created hereunder or through any other lawful collection proceeding. In any such foreclosure or any other collection proceeding, the defaulting Owner shall be required to pay the costs and expenses of such proceedings, including reasonable attorney's fees.

12.4 Sale or transfer of any Unit as the result of court foreclosure or a mortgage foreclosure through the public trustee, or any proceeding in lieu of foreclosure, shall extinguish the lien of such assessments as to payments thereof which become due prior to such sale or transfer, but shall not relieve any former Owner of personal liability therefor. The mortgagee of such Unit who acquires title by way of foreclosure or the taking of a deed in lieu thereof shall not, however, be liable for future assessments on the date it becomes the Owner of such Unit. No sale or transfer shall relieve such Unit from liability for any assessments thereafter becoming due or from the lien thereof. In the event of the sale or transfer of a Unit with respect to which sums shall be unpaid by a defaulting Owner, except transfers to a first mortgagee in connection with a foreclosure of its lien or a deed in lieu thereof, the purchaser or other transfer of an interest in such Unit shall be jointly and severally liable with the seller or transferor thereof for any such unpaid sums.

12.5 Upon written request of any Owner, mortgagee, prospective mortgagee, purchaser or other prospective transferee of a Unit, the Owner of the other Unit shall issue a written

statement setting forth the amount he is owed under this paragraph, if any, with respect to such Unit. Such statement is binding upon the executing Owner in favor of any person who may rely thereon in good faith. Unless a request for such statement shall be complied with within fifteen (15) days after receipt thereof, all unpaid sums which became due prior to the date of making such request shall be subordinated to the lien or other interest of the person requesting such statement.

13. Use Restrictions.

13.1 Each Unit shall be restricted to a residential dwelling as a permitted use as defined and permitted by the Garfield County zoning regulations and by the Declaration of Protective Covenants, Conditions and Restrictions for Willow Ranch Subdivision as recorded on September 7, 2006 at Reception No. 706369 of the records of Garfield County, Colorado (the "Covenants").

13.2 No exterior mounted radio, shortwave, television or other type of antenna whatsoever or tank of any kind, either elevated or buried, or clothesline or incinerator or any kind whatsoever or outside storage shed or storage of any personal property shall be permitted or maintained on either Unit without the prior written approval of both Owners.

13.3 No "time sharing", "interval Ownership" or similar interest, whereby Ownership of a Unit is shared by Owners on a time basis, shall be established on either Unit.

14. Resolution of Decisions - Override.

14.1 Both Unit Owners shall be mutually responsible for the administration and management of the obligations created hereunder. However, in the event both Owners cannot mutually agree when a decision is required under this party wall agreement, the parties shall first attempt to resolve the issue in good faith by promptly submitting the issue to mediation. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate in the event the issue is not resolved within 30 days of the date written notice requesting mediation is delivered by one party to the other at the party's last known address. In the event mediation is terminated for any reason, the issue shall be promptly submitted to binding arbitration governed by Colorado law and conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

14.2 In the event either Owner believes that the arbitration remedy is inadequate or will not be responsive to a situation requiring immediate action or intervention, such Owner shall be entitled to pursue any ancillary or equitable remedy which might otherwise be available. In any litigation, the Court may assess costs and any reasonable attorney fees as may have been incurred by the parties based upon the merits of the case in favor of the prevailing party.

15. Notice. Each Owner shall register its mailing address with the other Owner and all notices or demands intended to be served upon Owners shall be sent by certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. In the alternative, notice may be delivered, if in writing, personally to Owners or if no registration occurs, to the address of the Owner on the records of the Garfield County Assessor.
16. Duration of Declaration. Each provision contained in this Declaration which is subject to the laws or rules sometimes referred to as the rule against perpetuities or the rule prohibiting unreasonable restraints on alienation shall continue and remain in full force and effect for the maximum permissible period permitted by law or until this Declaration is terminated as hereinafter provided, whichever first occurs.
17. Amendment or Revocation. This Declaration may be amended or revoked only (a) by Declarant so long as Declarant owns both of the Units, or (b) upon unanimous written approval in recordable form of all Owners and any holder of a first mortgage or first deed of trust of record on either of the Units.
18. Effect of Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with any provision of this Declaration, and any necessary exception or reservation or grant of title, estate, right or interest to effectuate any provision of this Declaration: (i) shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any portion of the East Unit or the West Unit is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument; (ii) shall, by virtue of acceptance of any right, title or interest in any portion of the East Unit or the West Unit by an Owner, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner and, as a personal covenant, shall be binding on such Owner and his heirs, personal representatives, successors, lessees, assigns and, shall be deemed a personal covenant to, with and for the benefit of each Owner of any portion of the East Unit or the West Unit; and (iii) shall be deemed a real covenant by Declarant, and its successors and assigns and also an equitable servitude, running, in each case, as a burden with and upon the title to each and every portion of the East Unit or the West Unit.
19. Enforcement and Remedies.
  - 19.1 Each provision of this Declaration shall be enforceable by civil action including equitable proceedings. In any suit or action to recover damages, the dispute or claim shall be submitted to arbitration as described in Section 14.1. If court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorney fees.

19.2 Each Owner hereby agrees that any and all actions in equity or at law which are instituted to enforce any provisions hereunder shall be brought in and only in the District Court of Garfield County, State of Colorado.

19.3 Failure to enforce any provision of this Declaration shall not operate as a waiver of any such provision, the right to enforce such provision thereafter, or of any other provision of this Declaration.

20. Exercise of Rights. Any exercise of any rights granted hereunder by one Owner with respect to the other Owner's Unit including but not limited to the use of any easement granted herein shall be exercised in a manner which shall not unreasonably hinder, impede or impose upon such other Owner's use of his Unit.
21. Successors and Assigns. Except as otherwise provided herein, this Declaration shall be binding upon and shall inure to the benefit of Declarant and each subsequent Owner and the heirs, personal representatives, successors and assigns of each.
22. Severability. Invalidity or unenforceability of any provisions of this Declaration in whole or in part shall not affect the validity or enforceable part of any provision of this Declaration.
23. Captions. The captions and headings in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration.
24. Construction. When necessary for proper construction, the masculine of any word used in this Declaration shall include the feminine or neuter gender, and the singular the plural, and vice versa.

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IN WITNESS WHEREOF, Declarant has executed this Declaration this \_\_\_\_ day of \_\_\_\_\_, 2009.

