

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
HAWKS HAVEN SUBDIVISION**

THIS DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS ("Declaration") is made as of this 7th day of April, 2008, by Hawks Haven LLC, a Colorado limited liability corporation, hereafter sometimes referred to as "Declarant".

**ARTICLE 1
GENERAL**

_ Section 1.1. Community. Declarant is the owner of those certain parcels of land located in the County of Delta, Colorado, more particularly described on Exhibit A attached hereto and incorporated herein by reference, which is defined in this Declaration as the "Community." Declarant intends to develop the Community as a high quality neighborhood of single family residential lots in accordance with the terms and provisions of the Colorado Common Interest Ownership Act Section 38-33.3-101 *et seq.*, C.R.S. The Community is called Hawks Haven.

_ Section 1.2. Purposes of Declaration. This Declaration is executed (a) in furtherance of a common and general plan for the Community; (b) to protect and enhance the value, aesthetics, desirability and attractiveness of the Community; (c) to provide for an Association as an entity to hold, maintain, care for and manage Association Properties that will benefit all owners of Lots; (d) to define the duties, powers and rights of the Association, including, without limitation, performance of certain maintenance obligations with respect to roads, open space, pedestrian ways, Common Area, Common Area Improvements, irrigation and domestic water systems, surface water detention ponds, off site drainage and Association Properties, and such other obligations, whether similar or dissimilar, that the Association elects to undertake in accordance with the provisions hereof; (e) to define certain duties, powers and rights of owners of property within the Community; and (f) to comply with and effectuate the terms and provisions of the Act. Unless specifically excluded, all Covenants, Conditions and Restrictions set forth herein shall pertain to all Lots in the Community.

_ Section 1.3. Declaration. Declarant, for itself, its successors and assigns, hereby declare that all property that becomes subject to this Declaration in the manner hereinafter provided, and each part thereof, shall, from the date the same becomes subject to this Declaration, be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in this Declaration, for the duration hereof, all of which are declared to be part of, pursuant to, and in furtherance of a common and general plan of development, improvement, enhancement and protection of the Community. The provisions of this Declaration are intended to and shall run with the land and, until their expiration in accordance with the terms hereof, shall bind, be a charge upon and inure to the mutual benefit of (a) all of the property that becomes part of the Community and each part or parcel thereof, (b) Declarant and its successors and assigns, (c) the Association and its successors and assigns, and (d) all Persons having or acquiring any right, title or interest in and property that becomes part of the Community or any part or parcel thereof or any improvement thereon and their heirs, personal representatives, successors and assigns. This Declaration shall be Recorded in Delta County.

ARTICLE 2 DEFINITIONS

_ Unless otherwise expressly provided herein, the following words and phrases when used in this Declaration shall have the meanings specified in this article.

_ Section 2.1. Act. "Act" shall mean the Colorado Common Interest Ownership Act as provided in Colorado Revised Statutes 38-33.3-101, et seq., as the same may be amended from time to time.

_ Section 2.2. Administrative Functions. "Administrative Functions" shall mean all functions as are necessary and proper under this Declaration and shall include, without limitation, providing management and administration of the Association.

_ Section 2.3. Articles of Incorporation. "Articles of Incorporation" shall mean the Articles of Incorporation of Hawks Haven Homeowners Association, which have been or will be filed in the office of the Secretary of State of the state of Colorado, as the same may be amended from time to time.

_ Section 2.4. Assessment. "Assessment" shall mean a Common Assessment, Special Assessment, or a Reimbursement Assessment.

_ Section 2.5. Association. "Association" shall mean the Hawks Haven Homeowners Association (HOA), a Colorado nonprofit corporation, its successors and assigns.

_ Section 2.6. Association Properties. "Association Properties" shall mean all real and personal property, including improvements, and all Common Areas, now or hereafter owned by the Association or with respect to which the Association holds an easement for the use, care, or maintenance thereof, or for which the Association has a right or duty to maintain, held for the common use and enjoyment of certain of its Members as provided herein, and for other purposes as may be permitted by this Declaration.

_ Section 2.7. Budget. "Budget" shall mean a written itemized estimate of the expenses to be incurred by the Association in performing its functions under this Declaration, prepared pursuant to section 9 of this Declaration.

_ Section 2.8. Bylaws. "Bylaws" shall mean the Bylaws of the Association that have been or will be adopted by the Executive Board of the Association, as the same may be amended from time to time.

_ Section 2.9. County. "County" shall mean Delta County, Colorado.

_ Section 2.10. Common Area. "Common Area" shall mean any portions of the Community designated as Common Area that are or maintained by the Association for the common use and enjoyment of the Owners, including, but not limited to, open space parcels, any easements for the use and benefit of the Owners as may be provided in this Declaration, pond(s), irrigation easements and all improvements located thereon. The Common Area may be owned: (a) by the Association; or (b) separately by individual Owners over which the Association may have an easement for maintenance purposes.

_ Section 2.11. Common Assessment. "Common Assessment" shall mean the assessments made

for the purpose of covering the portion of the annual costs of operating the Association, including expenses incurred in connection with any authorized function of the Association, that are to be paid by each Owner to the Association for purposes provided herein and charged to such Owner and to the Lot of such Owner.

_ Section 2.12. Community. "Community" shall mean the real property that is subject to this Declaration.

_ Section 2.13. Declaration. "Declaration" shall mean this instrument as it may be amended from time to time.

_ Section 2.14. Deed of Trust. "Deed of Trust" shall mean all security interests identified in section 38-33.3-103(28), Colorado Revised Statutes.

_ Section 2.15. Design Review Committee. "Design Review Committee" ("DRC") shall mean the Committee provided for in article 4 of this Declaration.

_ Section 2.16. Executive Board. "Executive Board" and "Board" shall both mean the board of directors of the Association established in accordance with the Colorado Nonprofit Corporations Act.

_ Section 2.17. Improvement. "Improvement" shall include all structures and any appurtenances thereto of every type or kind, including, but not limited to, buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, painting of any exterior surface structure, relocation, installation or replacement of windows, additions, walkways, outdoor sculptures or artwork, sprinkler pipes, garages, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, dog runs and dog houses, recreational equipment, fixtures, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, basketball courts or poles, light poles, flag poles, signs, exterior tanks, solar equipment, exterior air conditioning and water softener fixtures.

_ Section 2.18. Improvement to Property. "Improvement to Property" shall mean any change, alteration, or addition to any property within the Community. "Improvement to Property" shall include, but is not limited to those improvements more particularly described in section 4 of this Declaration.

_ Section 2.19. Leases. "Lease" shall mean and refer to any agreement for the leasing or rental of a Residence, and shall specifically include, without limitation, a month-to-month rental.

_ Section 2.20. Lot. "Lot" shall mean a residential dwelling portion of the development, which is designed for separate ownership of occupancy, the boundaries of which are shown on the Plat. For purposes of these Declarations, "Lot" shall have the same definition as the term "Unit" has under the Act. "Lot Owner" or "Owner" means the Declarant or any other Person who owns a Lot by virtue of a fee simple deed. Lot owner does not include a Person having only a security interest or any other interest in a Lot solely as security for an obligation. The Declarant is the initial owner of each and every Lot created and defined by this Declaration.

_ Section 2.21. Member. "Member" shall mean Owner or Owners of a Lot.

_ Section 2.22. Mobile Home. Mobile Home shall mean a factory built home that has an integrated chassis and wheel assembly for transportation, designed to rest on a temporary or permanent foundation, carrying an ownership title, taxed as personal property.

_ Section 2.23. Mortgage. "Mortgage" shall mean any mortgage or deed of trust or other such instrument, given voluntarily by the owner of a Lot, encumbering the Lot to secure the performance of an obligation or the payment of a debt and that is required to be released upon performance of the obligation or payment of the debt. The term "Deed of Trust" when used in this Declaration is synonymous with the term "Mortgage."

_ Section 2.24. Mortgagee. "Mortgagee" shall mean a mortgagee under a Mortgage or a beneficiary under a Deed of Trust, as the case may be, and the assignees of such Mortgagee.

_ Section 2.25. Mortgagor. "Mortgagor" shall mean a Person who mortgages property owned by that Person (i.e., the maker or grantor of a Mortgage) to another. The term "Mortgagor" shall include a maker or grantor of a Deed of Trust.

_ Section 2.26. Notice and Hearing. "Notice and Hearing" shall mean written notice given to a member of the HOA to inform him or her of a possible violation of the CC&Rs.

_ Section 2.27. Owner. "Owner" shall mean the Members, or, all Persons collectively, who hold fee simple title of Record to a Lot, including sellers under executory contracts of sale and excluding buyers thereunder.

_ Section 2.28. Person. "Person" shall mean a natural person, corporation, partnership, limited liability company, or any other entity.

_ Section 2.29. Planned Community. "Planned Community" shall have the same meaning as set forth in the Act.

_ Section 2.30. Rules and Regulations. "Rules and Regulations" shall mean rules and regulations adopted by the Executive Board.

_ Section 2.31. Residence. "Residence" shall mean a physical building Improvement in the Community on a Lot, or the portion of a physical building Improvement on a Lot designated for separate ownership or occupancy, that may be sold or conveyed without violation of the provisions of Colorado law.

ARTICLE 3 GENERAL RESTRICTIONS AND COVENANTS

_ Section 3.1. Limitations and Restrictions. All real property within the Community shall be held, used, and enjoyed subject to the following limitations and restrictions set forth in this Declaration. The strict application of the following limitations and restrictions in any specific case may be modified or waived in whole or in part by the DRC if such strict application would be unreasonably or unduly harsh under the circumstances. Any such modification or waiver must be in writing or be contained in written guidelines or rules promulgated by the DRC .

_ Section 3.2. Maintenance of Community. All property within the Community, including any Improvements and landscaping thereon, shall be kept and maintained in a clean, attractive, and slightly condition and in good repair. Each Owner who purchases a Lot from the Members shall maintain its

unimproved landscape in accordance with applicable laws, ordinances, rules or regulations. No property within the Community shall be permitted to fall into disrepair. Maintenance, repair, and upkeep of each Lot shall be the responsibility of the Owner of the Lot. Violation of this provision by an Owner shall permit the Association, after Notice and Hearing, to enter onto the Lot of the Owner and cure the violation or cause compliance with this provision and to levy and collect a Reimbursement Assessment for the costs and expenses of the Association in so doing; provided, however, that there shall be no entry into the interior of an Improvement intended for human occupancy without the consent of the Owner thereof unless a clear emergency exists. Maintenance, repair, and upkeep of Association Properties shall be the responsibility of the Association.

_ Section 3.3. Uses of Lots. In-home businesses or occupations shall be allowed in a Residence, provided such activities are conducted solely within the lot and do not create or result in any nuisance or any unreasonable, unwarranted, or unlawful use or interference with rights of Owners or of the public, including, but not limited to, unreasonable or unwarranted use of rights of way, or sidewalks, excessive traffic or parking or interference with public streets, requirements, or in any other offensive or noxious activities. No in-home business or occupation requiring more than one employee working within any Residence shall be permitted without the consent of the Association.

_ Section 3.4. Annoying Sounds, Odors and Lights. No sound or odor shall be emitted from any Lot that is noxious or unreasonably offensive to others. No lights shall be emitted from any Residence that are unreasonably bright or cause unreasonable glare. No exterior horns, whistles, bells, or other sound devices, other than security devices used exclusively for security purposes, shall be located or used on any property except with the prior written approval of the DRC. All vehicles owned or operated by Owners and used in the Community, including ATV's, shall be maintained to minimize noise and not emit visible smoke.

_ Section 3.5. No Hazardous Activities. No activity shall be conducted on and no Improvement shall be constructed on any property within the Community that 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 property within the Community. No open fires shall be lighted or permitted on any property within the Community except in a contained barbecue canister while attended and in use for cooking purposes or within an interior or exterior fireplace designed to prevent the dispersal of burning sparks and embers. Fires contained only in a fire ring or fire pit are allowed subject to all Delta County resolutions and ordinances and are disallowed during times of fire bans. A source of water for fire protection shall be available sufficient to douse such a fire and the fire shall be attended at all times. Use of non-organic chemical herbicides and pesticides is strongly discouraged. If chemical products are deemed necessary, all adjacent neighbors must be informed and permission given. The Members and guests shall obey Association traffic rules, including speed limits, that may be established by the Association.

_ Section 3.6. Compliance with Insurance Requirements. Except as may be approved in writing by the Executive Board, nothing shall be done or kept on property within the Community that might result in a material increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

_ Section 3.7. Unsightliness and Junk. All unsightly conditions, structures, facilities, equipment, objects, boxes, implements, machinery, furniture, appliances and other unsightly conditions shall not be visible from the road or from neighbor's lot, except when in actual use. Members shall comply with applicable Delta County ordinances prohibiting the accumulation of rubbish and junk.

_ Section 3.8. Trash, Weeds, Standing Water and Mosquito Control. Each owner shall keep the Lot clear of trash, noxious weeds and other unsightly growth and landscaping that, in the reasonable opinion of the Members or DRC, causes undue fire danger, or interferes with access to, or use of, any Common Area. Any pond or landscape water feature must be monitored for the presence of mosquito larva. Methods of mosquito treatment shall be approved by the Association. Members may not request application of chemical mosquito treatment from the Paonia Mosquito Control District or any other provider, and the Association shall seek to avoid such treatment on Association Properties.

_ Section 3.9. Restrictions on Garbage and Trash. Refuse, garbage, trash, lumber, grass, shrub, or tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse, or debris of any kind shall be kept, stored, or allowed to accumulate so as not to be visible from the road or from neighbor's house. Trash can attract wildlife. Precautions must be taken to reduce the risk of attracting wildlife. These precautions include keeping trash and pet food indoors or in bear proof containers if deemed necessary by the Association

_ Section 3.10. Animals. The keeping of pets or small animals is permissible subject to the Association's pet policies. All pets must be fenced or restrained at all times within a Lot. Pets may not be kept, bred, or maintained for any commercial purpose. There will be a membership process for all outdoor pets, requiring approval of a majority of the other lot owners, such approval shall not be withheld without cause. In the event that Association policies are violated and the owner does not address the violations, Association shall have the power to order removal of a particular pet by vote of the majority of the remaining lot owners and/or assess penalties if owner does not remove the animal.

No animal of any kind shall be permitted which in the opinion of the members makes an unreasonable amount of noise or odor or is a nuisance. Noise, odor, flea and other nuisance issues will be addressed by the pet owner to the community's satisfaction. All household pets shall be controlled by their owner while on roads, paths and Association properties. Pets may not run free on Association property and must not chase wildlife. Each owner of a household pet shall be financially responsible and liable for any damage caused by said household pet. Members must take appropriate precautions to protect pets from predatory wildlife, such as keeping pets indoors at night.

(a) Chickens and other poultry must be kept in a pen. No more than 12 (twelve) fully grown chickens or other poultry in a pen per Lot. Roosters are not permitted.

(b) Cats. No more than 2 (two) per Lot. Measures must be taken to protect wildlife and birds from cats. Free-ranging cats must wear a bell. Owners of free-ranging cats will work out cat-fighting issues in acceptable ways. All cats must have rabies vaccinations. All cats must be spayed/neutered, however, a variance can be applied for.

(c) Dogs. Limit of 1 (one) dog per Lot unless a second is granted by the Association. Members must assure adherence to Delta County dog ordinances and resolutions, attached as Exhibit B. Dogs must be licensed. Dogs may be walked on leash on established roads and trails. Dog owners must clean up their dog's feces, either by removing it or burying deeply enough so as not to attract flies.

_ Section 3.11. Storage of Gasoline and Explosives, Etc. No Lot shall be used for storage of explosives, gasoline, or other hazardous volatile or incendiary materials or devices. Gasoline or fuel for an Owner's lawn mower and other equipment may be maintained on an incidental basis on the Lot in an amount not to exceed five gallons.

_ Section 3.12. Trailers, Campers and Recreational Vehicles. All trailers, boats, campers or other recreational vehicles shall be screened from the street and neighbors view. Visitors are allowed to park and use a camper on the property of a Member for up to two weeks. Permission is required for periods beyond 2 weeks.

_ Section 3.13. Restrictions on Signs and Advertising. No sign, poster, billboard, advertising device, or display of any kind shall be erected or maintained anywhere within the Community so as to be evident to public view, except: (a) temporary decorations or displays associated with any holidays, temporary political signs for use during an election and temporary yard sale signs; and (b) signs, posters, billboards or any other type of advertising device or display erected by Members incidental to the development, construction, promotion, marketing, or sales of Lots within the Community. A sign advertising a Lot or Residence for sale or for lease or a home based business may be placed on such Lot.

_ Section 3.14. Maintenance of Drainage. There shall be no interference with the established drainage pattern over any Lot or other property within the Community, except as approved in writing by the members. Approval shall not be granted unless provision is made for adequate alternate drainage. The "established drainage pattern" shall mean the drainage pattern that exists at the time any grading of any property is completed by Members and shall include any established drainage pattern shown on any plans approved by the members . The established drainage pattern may include the drainage pattern: (a) from Association Properties over any Lot; (b) from any Lot over the Association Properties; (c) from any property owned, by the County or the Town of Paonia or other Persons over any Lot; (d) from any Lot over property owned by the County or the Town of Paonia or other Persons; or, (e) from any Lot over another Lot.

_ Section 3.15. Further Subdivision of Residence. The Owner of a Residence shall not further subdivide the Residence.

_ Section 3.16. Further Subdivision of Lot. The Owner of a Lot shall not further subdivide the Lot.

_ Section 3.17. Restrictions on Sewage Disposal and Grey Water Systems. Any sewage disposal or grey water system installed within the Community shall be subject to applicable laws, rules, and regulations of any governmental authority having jurisdiction.

_ Section 3.18. Restoration in the Event of Damage or Destruction. In the event of damage to or destruction of any Improvement on any Lot, the Owner thereof shall cause the damaged or destroyed Improvement to be restored or replaced to its original condition or such other condition as may be approved in writing by the members or the lot is to be leveled and cleared, such action to be completed within 18 months.

ARTICLE 4 ARCHITECTURAL APPROVAL & CONSTRUCTION

_ Section 4.1. Approval of Improvements Required. The approval of the DRC shall be required for any Improvement to Property on any Lot, except where prior approval of Improvements to Property may be waived or certain Improvements to Property may be exempted in writing or under written guidelines or rules promulgated by the DRC.

_ Section 4.2. Improvement to Property Defined. "Improvement to Property" requiring approval of the DRC as described in section 4 of this Declaration shall mean and include, without limitation: (a) the construction, installation, erection, or expansion of any building, structure, or other Improvement, including utility facilities, landscaping and fences; (b) the demolition or destruction, by voluntary action, of any building, structure, or other Improvement; (c) the grading, excavation, filling, or similar disturbance to the surface of the land including, without limitation, change of grade, change of ground level, or minor change of drainage pattern (none of which shall be undertaken contrary to the provisions of section 3 of this Declaration); and (d) any change or alteration of any previously approved Improvement to Property, including any change of exterior appearance, color, or texture. The foregoing notwithstanding, incidental landscaping shall not be an Improvement to Property.

_ Section 4.3. Membership of Committee. The DRC shall consist of three members whom shall be appointed by the Executive Board. Members of the DRC may be, but need not be, Members of the Association or Members of the Executive Board. Members of the DRC may be removed at any time by the Board. If the DRC is not appointed then the Association will act as the DRC

_ Section 4.4. Address of DRC. The address of the DRC shall be in care of the HOA, or such other address announced or published from time to time by the Association.

_ Section 4.5. Submission of Plans. Except as provided in section 4, prior to commencement of work to accomplish any proposed Improvement to Property, the Person proposing to make such Improvement to Property ("Applicant") shall submit to the DRC at its address such descriptions, surveys, plot plans, [drainage plans, elevation drawings], landscaping plans, fencing plans. Until receipt by the DRC of all required materials in connection with the proposed Improvement to Property, the DRC may postpone review of any materials submitted for approval. Submitted plans and specifications may be retained by the DRC.

_ Section 4.6. Criteria for Approval. The DRC shall approve any proposed Improvement to Property if it deems in its reasonable discretion that the Improvement to Property will be in harmony with the Community; that the upkeep and maintenance of the proposed Improvement to Property will not become a burden on the Association; and that the proposed Improvement to Property does not affect the drainage plan for the Community. The DRC may condition its approval of any proposed Improvement to Property upon the making of such changes therein as the DRC may deem appropriate.

_ Section 4.7. Design Standards. The DRC may issue standards or rules ("Design Standards") relating to the procedures, materials to be submitted, and additional factors that will be taken into consideration in connection with the review of any proposed Improvement to Property. The Design Standards shall encourage environmentally responsible methods of design and construction, including the use of solar energy, conservation of water and energy, nontoxic building materials, and minimizing of waste during construction. The Design Standards may specify circumstances under which the strict application of limitations or restrictions under this Declaration will be waived or deemed waived in whole or in part because strict application of such limitations or restrictions would create a hardship. The Design Standards may waive the requirement for approval of certain Improvements to Property or exempt certain Improvements to Property from the requirement for approval, if such approval is not reasonably required to carry out the purposes of this Declaration.

_ Section 4.8. Decision of Committee. Any decision of the DRC shall be made within thirty days after receipt by the DRC of all materials required by the DRC, unless such time period is extended by mutual agreement, or unless delay is caused by any governmental authority having jurisdiction. If the

decision is not to approve a proposed Improvement to Property, the reasons for disapproval shall be stated.

_ Section 4.9. Failure of Committee to Act on Plans. Any request for approval of a proposed Improvement to Property shall be deemed approved, unless disapproval or a request for additional information or materials is transmitted to the Applicant by the DRC within thirty days after the date of receipt by the DRC of all required materials, or unless delay is caused by any governmental authority having jurisdiction.

_ Section 4.10. Prosecution of Work after Approval. After approval of any proposed Improvement to Property, the proposed Improvement to Property shall be accomplished in complete conformity with the description of the proposed Improvement to Property, and any conditions imposed by the DRC. Failure to complete the proposed Improvement to Property within eighteen (18) months after the date of approval or to complete the improvement in accordance with the description and materials furnished to, and the conditions imposed by, the DRC, shall constitute noncompliance and all approvals previously granted by the DRC shall be automatically revoked and withdrawn. The foregoing notwithstanding, the DRC shall have discretion to extend the eighteen month period.

_ Section 4.11. Notice of Completion. Upon completion of the Improvement to Property, the Applicant must give a written notice of completion to the DRC.

_ Section 4.12. Inspection of Work. The DRC or its duly authorized representative shall have the right to inspect any Improvement to Property prior to or after completion, provided that the right of inspection shall terminate thirty days after the DRC shall have received a notice of completion from Applicant.

_ Section 4.13. Notice of Noncompliance. If, as a result of inspections or otherwise, the DRC finds that any Improvement to Property has been made without obtaining the approval of the DRC or was not made in complete conformity with the description and materials furnished to, and any conditions imposed by, the DRC the DRC shall notify the Applicant in writing of the noncompliance. The notice shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance. No inaction by the Association or DRC during construction of any Improvement to Property shall be considered a waiver of their rights to declare a noncompliance or to take any action in response to the noncompliance.

_ Section 4.14. Appeal to Executive Board of Finding of Noncompliance. If the DRC gives any notice of noncompliance, the Applicant may appeal to the Executive Board by giving written notice of such appeal to the Board and the DRC within thirty days after receipt of the notice of noncompliance by the Applicant. If, after a notice of noncompliance, the Applicant fails to commence diligently to remedy such noncompliance, the DRC shall request a finding of noncompliance by the Executive Board by giving written notice of such request to the Association and the Applicant within sixty days after delivery to the Applicant of a notice of noncompliance from the DRC. In either event, the Executive Board shall hear the Owner in accordance with the provisions of the Bylaws for Notice and Hearing, and the Board shall decide whether or not there has been such noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. Nothing shall prohibit the persons on the Executive Board from serving on the DRC. No right of appeal shall exist if the Executive Board is composed solely of Members of the DRC.

_ Section 4.15. Correction of Noncompliance. If the DRC determines that a noncompliance exists and no appeal to the Executive Board is pending, the Applicant shall remedy or remove the same within a period of not more than forty-five days from the date of receipt by the Applicant of the determination of the DRC (or the Executive Board in the case of an appeal). If the Applicant does not comply with the determination within such period, the Executive Board may, at its option, record a notice of noncompliance against the Lot on which the noncompliance exists, may enter upon such property and remove the non-complying Improvement to Property, or may otherwise remedy the noncompliance, and the Applicant shall reimburse the Association, upon demand, for all expenses incurred therewith. If such expenses are not promptly repaid by the Applicant or Owner to the Association, the Board may levy a Reimbursement Assessment against the Owner of the Lot for such costs and expenses. The Applicant and Owner of the Lot shall have no claim for damages or otherwise on account of the entry upon the property and removal of the non-complying Improvement to Property. The construction or maintenance of any Improvement to Property without conforming to the requirements of this Section shall be subject to legal and equitable relief including injunctions.

_ Section 4.16. No Implied Waiver or Estoppel. No action or failure to act by the DRC or by the Executive Board shall constitute a waiver or estoppel with respect to future action by the DRC or the Executive Board with respect to any Improvement to Property. Specifically, the approval of the DRC of any Improvement to Property shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar Improvement to Property or any similar proposals, plans, specifications, or other materials submitted with respect to any other Improvement to Property.

_ Section 4.17. Committee Power to Grant Variances. The DRC may authorize variances from compliance with any of the provisions of this Declaration or the Design Standards, including restrictions upon height, size, floor area, or placement of structures or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may so dictate. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the Members of the DRC. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not affect in any way the Owner's obligation to comply with all governmental laws and regulations.

_ Section 4.18. Meetings of Committee. The DRC shall meet from time to time as necessary to perform its duties. The written consent or vote of a majority of the Members of the DRC shall constitute the action of the DRC.

_ Section 4.19. Records of Actions. The DRC shall report in writing to the Executive Board all final actions of the committee. The Executive Board shall keep a permanent record of such reported actions that are available to Association Members.

_ Section 4.20. Estoppel Certificates. The Executive Board shall, upon the reasonable request of any interested Person and after confirming any necessary facts with the DRC, furnish a certificate with respect to the approval or disapproval of any Improvement to Property or with respect to whether any Improvement to Property was made in compliance herewith.

_ Section 4.21. Nonliability of Committee. No liability shall be imposed upon the DRC, any member of the DRC, any representative of the DRC, the Association, any member of the Executive Board, or Members for any loss, damage, or injury arising out of or in any way connected with the performance of the duties of the DRC. In reviewing any matter, the DRC shall not be responsible for reviewing, nor

shall its approval of an Improvement to Property be deemed approval of the Improvement to Property from the standpoint of safety, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations.

_ Section 4.22. Construction Period Exception. During the course of actual construction of any approved permitted structure or Improvement to Property, and provided construction is proceeding with due diligence, the DRC shall temporarily suspend the provisions contained in this Declaration as to the property upon which the construction is taking place to the extent necessary to permit such construction, provided that it will not constitute an unreasonable interference with the use and enjoyment of other Lots. Temporary structures necessary for construction may be used during the period extending no later than (i) eighteen (18) months after commencement of construction, or (ii) the date of substantial completion of said improvement, whichever is earlier. The placement, appearance and maintenance of such temporary structure may be subject to reasonable rules of the Association. A portable toilet, or an outhouse that meets all regulatory approvals, must be present on any job site for which there is no working plumbing that is connected to an approved sewage disposal system.

_ Section 4.23. Construction Type. All construction shall be new. No building previously used at another location nor any building or structure originally constructed as a Mobile Home dwelling or structure may be moved onto a Lot, except as expressly hereinafter provided for in Section 4.22. Recycled materials may be used for new construction.

_ Section 4.24. Landscape. On sloping perimeter areas of Lots there shall be as little disruption to the native vegetation as is possible. Within one year after any construction activity is concluded, all disturbed slopes and any other area within or without the building envelope shall have been effectively revegetated with plants and other landscaping. The DRC may include landscape guidelines, including restrictions on chemical use and water conservation requirements, in its Design Standards.

_ Section 4.25. Restrictions on Antennae, Lines and Transmitters. Wires, poles, aerials, antennae, satellite dishes and other facilities for the transmission or reception of audio or visual signals or other utility facilities shall be kept and maintained, to the extent reasonably possible, out of view of neighbor and Association properties, underground or within an enclosed structure. No satellite dish larger than 36" in diameter shall be erected or maintained within the Community unless approved by the DRC.

_ Section 4.26. Air Conditioning and Heating Equipment. No heating, air conditioning, air movement or refrigeration equipment shall be placed, allowed, or maintained within sight of any road.

_ Section 4.27. Solar and Appropriate Technology. The use of solar electric and heating equipment, as well as low-technology methods of using solar energy, such as outdoor clothes lines is encouraged.

_ Section 4.28. Fences and Walls. In order to preserve open space and free movement of wildlife, perimeter fencing of property shall not be permitted. Deer fencing of fruit trees and of vegetable gardens is permitted. Fencing for the purpose of establishing trees and gardens is permitted. Fencing/walls of 48 inches high is permitted for yard areas near and around homes for children and pets. Privacy fences, security fences, and fences for screening purposes must have the prior written approval of the DRC unless they are constructed in conformance with general standard design specifications previously approved in writing by the DRC. The foot trail commonly known as the North Ridge Trail shall not be impeded by fencing or other structures.

_ Section 4.29. Retaining Walls. Upon prior approval of the Members or the DRC, any Owner may construct decorative retaining walls, provided that all walls 4 feet high or over are approved by a qualified engineer and that the retaining wall does not interfere with the established drainage pattern as described in Section 3.14, and further provided that it is architecturally compatible with the Improvements on the Lot.

ARTICLE 5 ASSOCIATION PROPERTIES

_ Section 5.1. Member's Rights of Use and Enjoyment Generally. Unless otherwise provided in this Declaration, all Members may use or enjoy the benefits of the Association Properties as appropriate.

_ Section 5.2. Right of Association to Regulate Use. The Association, acting through the Executive Board, shall have the power to reasonably regulate use of Association Properties by Members and the public to further enhance the overall rights of use and enjoyment of all Members.

_ Section 5.3 Conservation Easements. Members shall abide by all conditions of the deeded conservation easements.

_ Section 5.4. No Partition of Association Properties. No Owner shall have the right to partition or seek partition of the Association Properties or any part thereof.

_ Section 5.5. Liability of Owners for Damage by Owner. Each Owner shall be liable to the Association for any damage to Association Properties caused by such Owner, the occupants of such Owner's Residence or Lot and their invitees.

_ Section 5.6. Title to Association Properties on Dissolution of Association. In the event of dissolution of the Association, the Association Properties shall, to the extent permitted by law and reasonably possible, be conveyed or transferred to an appropriate public, governmental or quasi-governmental agencies or organizations or to a nonprofit corporation, association, trust, or other organization, to be used, in any such event, for the common benefit of Owners for similar purposes for which the particular Association Property was held by the Association. To the extent the foregoing is not possible, the Association Properties shall be sold or disposed of and the proceeds from the sale or disposition shall be distributed to Members in proportion to the number of Lots owned by such Members in the Community.

ARTICLE 6 MISCELLANEOUS

_ Section 6.1. Amendments to Declaration and Plat. Amendments to this Declaration may be made only by a vote or agreement of at least 67% of the Lot Owners in accordance with applicable provisions of the Act. 3.1 Upon a vote of at least 67% of the Lot Owners, requests to amend the Plat may be submitted to the Delta County Board of County Commissioners for their approval.

_ Section 6.2. Priority of First Mortgage. Each First Mortgagee of a Mortgage encumbering a Lot or Residence who obtains title to such Lot or Residence pursuant to the remedies provided in the

Mortgage, by judicial foreclosure or by deed or assignment in lieu of foreclosure, shall take title subject to claims of the Association for unpaid Assessments or charges against such Lot or Residence to the extent provided by the Act.

_ Section 6.3. Persons Entitled To Enforce Declaration. The Association, acting by authority of the Executive Board, and/or any Lot Owner, shall have the right to enforce any or all of the provisions, covenants, conditions, restrictions, and equitable servitudes contained in this Declaration against any property within the Community and the Owner thereof. The right of enforcement shall include the right to bring an action for damages and/or appropriate equitable relief, including injunctive relief of any provision of this Declaration.

_ Section 6.4. Violations of Law. Any violation of any federal, state, municipal, or local law, ordinance, rule, or regulation, pertaining to the ownership, occupation, or use of any property within the Community is hereby declared to be a violation of this Declaration and shall be subject to any and all enforcement procedures set forth in this Declaration.

_ Section 6.5. Remedies Cumulative. Each remedy provided under this Declaration is cumulative and not exclusive.

_ Section 6.6. Costs and Attorneys' Fees. In any controversy under this Declaration involving the Association as a party in which the Association is the prevailing party shall be entitled to recover its reasonable costs and expenses in connection therewith, including reasonable attorneys' fees. In any controversy or claim arising under this Declaration which does not include or involve the Association, the prevailing party shall be entitled to recover its reasonable costs and expenses, including reasonable attorney fees.

_ Section 6.7. Limitation on Liability. The Association, Executive Board, DRC, officer, director, agent, or employee of any of the same shall not be liable to any Person for any action or for any failure to act if the action or failure to act was in good faith and without malice.

_ Section 6.8. No Representations or Warranties. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by the Association or its agents or employees in connection with any portion of the Community, or any Improvement thereon, its or their physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing.

_ Section 6.9. Governing Law. This Declaration shall be construed and governed under the laws of the State of Colorado.

_ Section 6.10. Severability. Each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity, unenforceability, partial validity or partial enforceability of the provisions or portion thereof shall not affect the validity or enforceability of any other provision.

_ Section 6.11. Disclaimer Regarding Safety. The Association hereby disclaims any obligation regarding the security of any persons or property within the Community. Any Owner acknowledges that the Association is only obligated to do those acts specifically required herein, or in the Articles of Incorporation and Bylaws, and are not obligated to do any other acts with respect to the safety or protection of persons or property within the Community.

_Section 6.12. Conflicts. In the event of a conflict between the provisions of this Declaration and the Association's Articles of Incorporation or Bylaws, the provisions of this Declaration shall supersede and control.

_ Section 6.13. Members Rights and Responsibility

(a) Members have the right to report complaints to the Executive Board

(b) Mediation shall be utilized when conflicts arise. Another member of the HOA may act as a mediator when both sides agree. A mediator may be chosen by the Executive Board.

(c) If mediation of a dispute proves impossible or if an agreed-upon mediation outcome cannot be obtained by the Members who are party to the dispute, the dispute may be submitted to arbitration. Any party may commence arbitration of the dispute by sending a written request for arbitration to all other parties to the dispute. All parties shall share the cost of arbitration, but the prevailing party or parties may be awarded attorney fees, costs and other expenses of arbitration.

(d) The Members may not take a matter to court unless and until the matter has been submitted to good faith mediation.

_ Section 6.14. Owners Obligation. It is the responsibility of each Owner to read, understand and abide by all applicable covenants, regulations, laws and ordinances prior to purchasing a Lot and prior to submitting construction plans for consideration by the DRC. Upon resale of a Lot or Residence, or upon lease of any Lot or Residence, the owner's deed or instrument transferring title or right shall contain a provision incorporating by reference this Declaration, as well as any applicable supplementary declarations.

(a) In the case of a lease of any Lot or Residence, any failure by the tenant to comply with the terms and provisions of applicable covenants or restrictions shall be a default under the lease. All leases shall be in writing, and a copy thereof shall be provided upon request to the Executive Board, which may require use of its approved lease form, or the incorporation of particular provisions. After notice and an opportunity for hearing, the Executive Board may require an Owner to take action to evict any tenant who has violated any provision of this Declaration, the Articles of Incorporation or Bylaws.

_ Section 6.15. Irrigation Water. Lots are provided irrigation water through the Hawks Haven Homeowners Association Irrigation System. The Association shall be responsible for the operation and maintenance of the common irrigation distribution system. The DRC shall authorize the size and method of connection for each lot, and the Executive Board shall allocate the water available on an equitable rotation basis as necessary to provide irrigation water throughout the Community. Members must comply with any rotational system as established by the Executive Board. Each respective Lot Owner will be responsible for installation of an approved connection to the lateral line located on each Lot coming from the main distribution system, and for his own private distribution and other irrigation improvements located on his individual Lot. Each Lot Owner shall be required to irrigate his property by means of an irrigation system that shall be constructed, operated, flushed and maintained at his own expense. Individual irrigation pumps shall be the responsibility of the Lot Owner. Said irrigation pumps shall be located in a fenced, screened or covered location that is designed to be complimentary to adjacent landscaping and building improvements. The location of an individual Lot's irrigation improvements is subject to Design Standards and the approval of the DRC. Owners of irrigation systems with individual irrigation pumps must install a low pressure shut off to protect the system in case of a loss of water pressure in the main distribution line.

ARTICLE 7
ASSOCIATION OPERATION

_ Section 7.1. Association. The Association has been formed as a Colorado nonprofit corporation under the Colorado Nonprofit Corporations Act. The Association has been organized prior to the date the first Lot located in the Community is conveyed to a Purchaser, as that term is defined in the Act. The Association shall have the duties, powers, and rights set forth in the Act, the Colorado Nonprofit Corporations Act, this Declaration and in its Articles of Incorporation and Bylaws. As more specifically set forth hereinafter, the Association shall have an Executive Board to manage its affairs. Except as may be provided herein, the Articles of Incorporation or the Bylaws, the Executive Board shall be elected by Owners acting in their capacity as Members of the Association.

_ Section 7.2. Association Executive Board. The affairs of the Association shall be managed by an Executive Board. The number, term, and qualifications of the Members of the Executive Board shall be fixed in the Articles of Incorporation and Bylaws. The Executive Board may, by resolution, delegate portions of its authority to officers of the Association, but such delegation of authority shall not relieve the Executive Board of the ultimate responsibility for management of the affairs of the Association. Action by or on behalf of the Association may be taken by the Executive Board or any duly authorized executive committee, officer, agent, or employee without a vote of Members, except as otherwise specifically provided in this Declaration.

_ Section 7.3. Membership in Association. The Person or Persons who constitute the Owner of a Lot shall automatically be the holder of the Membership appurtenant to that Lot, and the Membership appurtenant thereto shall automatically pass with fee simple title to the Property. Owners shall hold a Membership in the Association for each Lot owned by such owner. Membership in the Association shall not be assignable separate and apart from fee simple title to Lot except that an Owner may assign some or all rights as an Owner and as a Member of the Association to a tenant or Mortgagee and may arrange for a tenant to perform some or all of such Owners obligations as provided in this Declaration, but no Owner shall be permitted to be relieved of responsibility for fulfillment of the obligations of an Owner under this Declaration.

_ Section 7.4. Voting Rights of Members. Each Member shall have the right to cast one vote for each Lot owned by such Member in accordance with the Bylaws, except that, in the election of Members of the Executive Board, each Member shall be entitled to vote for as many persons as there are positions to be filled. If a Lot is owned by more than one person or legal entity, those owners shall agree among themselves how a vote for that Lots Membership is to be cast. Individual co-owners may not cast fractional votes. A vote by a co-owner for the entire Lots Membership interest shall be deemed to be pursuant to a valid proxy, unless another co-owner of the same Lot objects at the time the vote is cast, in which case such Memberships vote shall not be counted.

ARTICLE 8
DUTIES AND POWERS OF ASSOCIATION

_ Section 8.1. General Duties and Powers of Association. The Association has been formed to further the common interests of the Members. The Association, acting through the Executive Board or Persons to whom the Board has delegated such powers, shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common

interests of the Members, to maintain, improve, and enhance the common interests of the Members, to maintain, improve, and enhance Association Properties, and to improve and enhance the attractiveness, aesthetics, and desirability of the Community.

_ Section 8.2. Liability Insurance. The Association shall obtain and keep in full force and effect, to the extent reasonably obtainable, general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of Association and Properties as they may determine.

_ Section 8.3. Duty to Levy and Collect Assessments. The Association may levy and collect Assessments as provided in this Declaration.

_ Section 8.4. Duty to Keep Association Records. The Association shall keep financial records sufficiently detailed to enable the Association to comply with the Act, including, but not limited to, financial records sufficiently detailed to provide a statement setting forth the amount of any unpaid Assessments currently levied against an Owner.

_ Section 8.5. Power to Adopt, Amend or repeal Rules and Regulations. The Association may adopt, amend, repeal, and enforce Rules and Regulations as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of Association Properties, and the use of any other property within the Community, including Lots, and the general restrictions and covenants described in article 3. By the vote of a super majority, defined as two thirds of the members present or represented by valid proxy at a regular or duly noticed meeting of the Members, rules may be adopted, amended or repealed. The Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of conflict between the Rules and Regulations and the provisions of this Declaration, the provisions of this Declaration shall prevail.

_Section 8.6. Power to Enforce Declaration and Rules and Regulations. The Association shall have the power to enforce the provisions of this Declaration and the Rules and Regulations and shall take such action as the Board deems necessary or desirable to cause compliance by each Member and each Person claiming by, through, or under such Member ("Related Users"). Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of this Declaration and the Rules and Regulations by any one or more of the following means: (a) by entry upon any property within the Community after notice and hearing (unless a bona fide emergency exists), without liability to the Owner thereof or the Association, for the purpose of enforcement or causing compliance with this Declaration or the rules and regulations; (b) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration or the Rules and Regulations, by mandatory injunction or otherwise; (c) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of this Declaration or the Rules and Regulations; (d) by suspension, after notice and hearing, of the voting rights of a Member during and for up to ten days following any breach by such Member or a Related User of such Member of this Declaration or the Rules and Regulations, unless the breach is a continuing breach in which case such suspension shall continue for so long as such breach continues; (e) by levying and collecting, after notice and hearing, a Reimbursement Assessment against any Member for breach of this Declaration or the Rules and Regulations by such Member or Related User of such Member; and (f) by levying and collecting uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, from any Member or Related User for breach of this Declaration or the Rules and Regulations by such Member or Related User of such Member.

_ Section 8.7. Power to Maintain Landscaping. The Association shall have the power and authority to maintain, repair, and replace the landscaping located on easements, around drainage improvements and ponds, and Association-owned property.

_ Section 8.8. Power to Maintain Utility and Drainage Facilities. The Community is serviced by certain utility and drainage facilities, including, but not limited to certain ponds and irrigation water system. In order to insure the continued beneficial use of the utility and drainage facilities, the Association shall have the power to maintain, repair, and replace such facilities as may be reasonably necessary to ensure the continued use of them for the benefit of the Community.

_ Section 8.9. Power to Maintain Roads. The Community is served by certain privately maintained public roads, known as Hawks Haven Road, Vista Drive and Pan American Drive. In order to insure the continued beneficial use of these roads, the Association shall have the power to maintain, repair, control dust, improve and replace such facilities as may be reasonably necessary to ensure the continued use of them for the benefit of the Community. At no time will the members of Hawks Haven HOA request from Delta County to maintain these public roads within Hawks Haven property. Any decision to pave the surface of any portion of any road shall require the approval of Members representing three-quarter of the entire votes of the Association entitled to vote.

_ Section 8.10. General Corporate Powers. The Association shall have all of the ordinary powers and rights of a Colorado corporation formed under the Colorado Nonprofit Corporations Act, including, without limitation, entering into partnership and other agreements, subject only to limitations upon such powers as may be set forth in this Declaration or in the Articles of Incorporation or Bylaws. The Association shall also have the power to do any and all lawful things that may be authorized, required, or permitted to be done under this Declaration, the Articles of Incorporation or Bylaws and to perform any and all acts that may be necessary or desirable for, or incidental to, the exercise of any express powers or rights of the Association under this Declaration, the Articles of Incorporation or Bylaws.

_ Section 8.11. Powers Provided by Law. In addition to the powers provided in this Declaration, the Articles of Incorporation, or Bylaws, the Association shall have full power to take and perform any and all actions that may be lawfully taken by the Association under the Colorado Nonprofit Corporations Act or the Colorado Common Interest Ownership Act. The Association may exercise any right or privilege expressly granted to the Association in the association documents, and every other right or privilege reasonably implied from the existence of any right or privilege given to the Association under the association documents or reasonably necessary to effect such right or privilege.

ARTICLE 9 BUDGETS AND FUNDS

_ Section 9.1. Maintenance Funds To Be Established. The Association may establish and maintain the following separate Maintenance Funds: (a) an Administrative Functions Operating Fund; and (b) an Administrative Functions Reserve Fund. The Maintenance Funds may be established as one or more savings or checking accounts at any financial institution in which deposits are insured by an agency of the federal government, each of which accounts shall be held in trust for the Members.

_ Section 9.2. Establishment of Other Funds. The Association may establish other funds as and when needed. If the Association establishes any additional funds, the Executive Board shall designate an appropriate title for the fund to distinguish it from other funds maintained by the Association.

_ Section 9.3. Authority for Disbursements. The Executive Board may have the authority to make, or to authorize an agent to make, disbursements of any money in a Maintenance Fund.

_ Section 9.4. Funding of Reserve Funds. The Executive Board, in budgeting and levying Assessments, shall endeavor, whenever possible, to fund the Administrative Functions Reserve Fund by regularly scheduled payments, included as part of the Common Assessments, rather than by Special Assessments. Money in the Administrative Functions Reserve Fund may be used in the discretion of the Board, from time to time, for any purpose for which a Common or Special Assessment may be used.

_ Section 9.5. Annual Budgets. The Executive Board shall cause to be prepared, at least thirty days prior to the commencement of each fiscal year, a Budget for such fiscal year, including a reasonable provision for contingencies and deposits into the Administrative Functions and Reserve Funds.

_ Section 9.6. Common Assessments. For each fiscal year, the Association may levy Common Assessments against Owners of the Lot. Each Owner or Owners shall be obligated to pay the Common Assessments levied against and allocated to such Owner or Owners and the Lot of such Owner or Owners, as hereinafter provided.

_ Section 9.7. Supplemental Common Assessments for Deficiencies. Subject to the provision of section 10.12, if the Common Assessments prove inadequate for any reason, including nonpayment of any Owner's Assessments, the Executive Board may, from time to time, levy a Supplemental Common Assessment for any of the Maintenance Funds. Such Supplemental Common Assessment shall be assessed against the Owner of each Lot in the same manner as Common Assessments are originally assessed each year by the Board with respect to the particular Maintenance Fund. Written notice of any change in the amount of any annual Common Assessment shall be sent to every Owner, not less than thirty days prior to the effective date of such change.

_ Section 9.8. Payment of Assessments. Common Assessments shall be due and payable according to policies established by the Association.

_ Section 9.9. Failure to Levy Assessment. Failure by the Executive Board to levy an Assessment for any year shall not be deemed a waiver or modification with respect to any of the provisions of this Declaration or a release of the liability of any Member to pay Assessments, or any installment thereof, for that or any subsequent year. No abatement of the Common Assessments or any other Assessment shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or Improvements to Association Properties or from any action taken to comply with any law or any determination of the Executive Board or for any other reason.

_ Section 9.10. Special Assessments for Capital Expenditures. In addition to Common Assessments, the Executive Board may, subject to the provisions of this section, levy Special Assessments for the purpose of raising funds not otherwise provided under the Budget from Common Assessments to construct or reconstruct, repair, or replace capital Improvements upon Association Properties, or to repay any loan or obligation of the Association to enable it to perform the duties and functions authorized in this Declaration. The Executive Board shall not levy Special Assessments without the approval of the Members representing at least two-thirds of the Owners of Lots subject to the Special Assessment who are entitled to vote.

_ Section 9.11. Late Charges and Interest. If any Common Assessment, Special Assessment, or Reimbursement Assessment or any installment thereof is not paid within thirty days after it is due, the Member obligated to pay the Assessment may be required to pay a reasonable late charge to be determined by the Executive Board. Any Assessment or installment of an Assessment that is not paid within thirty days after the date of any Notice of Default is given shall bear interest from the date of Notice of Default at the highest rate then established by statute in Colorado, but not less than five percent per annum interest, compounded annually. Further recording of claim of lien for any assessment under this Section 9 is not required for the lien to be valid.

_ Section 9.12. Remedies to Enforce Assessments. Each Assessment levied hereunder shall be a separate, distinct, and personal debt and obligation of the Owner or Member against whom the same is assessed. In the event of a default in payment of any Assessment or installment thereof, whether Common, Special, or Reimbursement, the Executive Board may, in addition to any other remedies provided under this Declaration or by law, enforce such obligation on behalf of the Association by suit or by filing and foreclosure of a lien. Voting rights of the Owner or Member may be suspended during any period of delinquency.

_ Section 9.13. Lawsuit to Enforce Assessments. The Executive Board may bring a suit at law to enforce any Assessment obligation. Any judgment rendered in such action shall include any late charges, interest, expenses and other costs of enforcement, including reasonable attorneys' fees in the amount the court may adjudge, against the defaulting Owner or Member.

_ Section 9.14. Lien to Enforce Assessments. Pursuant to and in accordance with the Act, the Association shall have a lien on a Lot for any Assessment levied against that Lot, or fines imposed against its Owner. All fees, charges, late charges, attorneys' fees, fines and interest outstanding from such Owner shall be included in such lien. The lien created hereby and under the Act shall be prior to any homestead rights and shall have the priority attached to such lien under the Act and under Colorado law. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. Unless paid or otherwise satisfied, the lien may be foreclosed in the manner for foreclosure of Mortgages in the state of Colorado or in any other manner provided under Colorado law.

ARTICLE 10 RE-SALE OF LOTS

_ Section 10.1. Anti-speculation Policy. The original purchasers of Lot #1, Lot #6 and Lot #7 from the Declarant shall be informed that these lots are being sold by Hawks Haven LLC with the understanding that the lots are not being sold for speculative purposes. In the event that the original purchaser of one of these lots decides to sell their lot, any profits (sale proceeds minus cost of lot minus bona fide expenses) will be shared with Hawks Haven LLC according to the following schedule:

Sale within 1 year of original purchase date: 50% owner/ 50% Hawks Haven LLC
Sale 1-2 years: 65% owner/35% Hawks Haven LLC
Sale 2-3 years: 80% owner/20% Hawks Haven LLC
More than 3 years: 100% owner

Exceptions to this may be granted by Hawks Haven LLC due to unforeseen personal circumstances.

_ Section 10.2. Re-sale Procedures, Required offers and Right of First Refusal. The Declarant wishes to assure the long-term continuity of like-minded owners in the Community. The following procedures shall be followed when any Owner of any Lot desires to sell their Lot, including any Improvements:

(a) Offer to HOA. Any lot owner who wishes to sell their lot shall first offer to sell such lot to the HOA by providing notice, in writing, served upon the Secretary of the HOA, which notice shall contain a proposed Contract, drafted on the most recent version of the Colorado Real Estate Commission approved form of a Contract to Buy and Sell Real Estate that contains all relevant terms and suggest a closing date no earlier than ninety (90) days from the date of acceptance of the Contract as written; or, in the alternative, for the HOA to provide a written notice to the selling lot owner that it wishes to exercise its right to hire, at the HOA's expense, a Colorado licensed real estate appraiser who shall, within a reasonable time, serve upon the HOA and the selling lot owner a copy of a certified appraisal of the value of the lot proposed for sale. Upon actual physical receipt of said certified appraisal, the selling lot owner shall have ten (10) days in which to agree to sell at the appraised value; or, in the alternative, within the same ten (10) day period, the selling lot owner may notify the HOA, by serving the Secretary, with a written notice, with a written notice that the selling Lot owner wishes to exercise the right to have a second appraisal performed at the cost of the selling lot owner. If the selling lot owner chooses the right to have a second appraisal performed, such an appraisal shall be obtained from a Colorado licensed appraiser within a reasonable time period and copies of the completed appraisal shall be served upon the Secretary of the HOA and the selling lot owner. If the two appraisals differ, the purchase price in the proposed contract offered to the HOA shall be adjusted to the mean average of the appraisals, and the proposed contract will be redrafted by the selling lot owner to contain the modified sales price and corresponding modified dated of performance and this redrafted proposed contract shall then be served upon the Secretary of the HOA. The HOA shall then have ten (10) days in which to either accept or reject the proposed Contract as modified by the average appraisal price as the selling price.

(b) Alternative Offer to Lot Owners. If the HOA rejects the proposed contract at any point in the above procedure outlined in paragraph (a), then the selling lot owner must offer to sell the lot to the remaining individual title owners of the remaining lots in the Community by following the same procedures as outlined in paragraph (a), except that if the appraisals have been performed during the time period involved in (a) above, and the selling price has been established by appraisal, there is no need for additional appraisals. Offers shall be made to all remaining lot owners by service of the proposed contract, and such owners shall have ten (10) in which to serve a notice of acceptance by serving upon the selling lot owner a copy signed by said lot owner. If more than one remaining lot owner serves a signed acceptance of the Contract upon the selling lot owner, then the selling lot owner must sell to the remaining lot owner who has owned his or her lot the longest. If more than one of the original member of Hawks Haven LLC, who may also be title owners at the time of the proposed sale, have provided notices of acceptance of the proposed contract, (and for purposes of the paragraph shall be deemed to have purchased their lots on the same date), the priority for purchase shall be established by a coin toss or another method deemed acceptable to the original members.

(c) Alternative HOA Right to Seek Purchaser. If, after the procedures in (a) and (b) above are complied with, and no purchaser is obtained (either because no contract was entered into, or because such contract did not close and there were no back-up contracts), the Selling owner must provide the HOA with no less than ninety (90) days from the expiration of the fourteen day acceptance period mentioned in (b) above, in which to obtain a purchaser under purchase terms established by the

appraisal procedure outlined in (a) above. During this ninety (90) day period, the selling lot owner may not list the property for sale.

(d) Alternative Offer to Third Parties with First Right of Refusal in HOA and Individual Lot Owners. If, after all of the procedures in (a), (b) and (c) above have been followed, and still there is no purchaser for the lot, the selling lot owner is free to list the property for sale to third parties: however, in this event, the HOA and if not exercised by the HOA, the individual remaining lot owners, using the procedures for determining the order in section (b), shall be provided with the first right of refusal to match or exceed the proposed purchase price terms in any offer received by the selling lot owner. Exercise of this right of refusal by either the Association of a lot owner must occur within a (4) day period from the time the HOA is served notice by the selling lot owner.

The time periods mentioned in this paragraph (d) shall begin to run from the actual date of service of an actual copy of the signed offer, as presented on the appropriate Colorado Real Estate Commission approved form of a Contract to Buy and Sell Real Estate received by the selling lot owner from any third party and served either upon the Secretary of the HOA or the individual remaining lot owners as the case may be.

The word “served” or “service” as used in this section 10.2 shall mean actual personal service as prescribed in Rule 4 of the Colorado Rules of Civil Procedure or by mailing to the recipient, priority mail with delivery confirmation to the recipient’s last known address. When, in this section 10.2, a time period is expressed, the time shall be calculated by starting with the day after the date of service and extend to 5:00 p.m. on the last day of the appropriate number of days thereafter. All rights expressed above may be waived, in writing, prior to the expiration of the dates mentioned in the paragraph 10.2.

In WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this _____ day of _____, 2008.

Jeff Regen, Member

David Warren and Julianne Guy (joint tenants), Member

Harold Brill, Member

Donald Meneley and Sara Sharer (joint tenants), Member