



**DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR  
WEST DALTON RANCH**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS for West Dalton Ranch is made as of Nov. 8, 2023 by Dalton Ranch West, Inc., a Colorado corporation ("Declarant").

**RECITALS**

A. Declarant is the owner of certain real property located in La Plata County, Colorado, more particularly described on the attached Exhibit A (the "Property").

B. Declarant desires to create a planned community pursuant to the Colorado Common Interest Ownership Act as set forth in Colorado Revised Statutes §§ 38-33.3-101 *et seq.* (the "Act") on the Property, the name of which is West Dalton Ranch.

C. Declarant also desires to protect and maintain the common interest community as a prime mountain residential area of high quality and value to enhance and protect its desirability and attractiveness and to provide for the maintenance of the common areas serving the common interest community.

**ARTICLE I  
DECLARATION AND SUBMISSION**

Declarant hereby declares that the Property shall be held, sold, and conveyed subject to the following covenants, restrictions, and easements, which are for the purpose of protecting the value and desirability of the common interest community, and which shall run with the land and be binding on all parties and heirs, successors, and assigns of parties having any right, title, or interest in all or any part of the Property. Additionally, Declarant hereby submits the Property to the provisions of the Act.

**ARTICLE II  
DEFINITIONS**

The following terms when used in this Declaration or any amendment or supplement hereto shall have the following meanings:

Section 2.1 "Act" means the Colorado Common Interest Ownership Act, C.R.S. §§ 38-33.3-101, *et seq.*, as it may be amended from time to time.

Section 2.2 "Allocated Interests" means a fraction or percentage of the Common Expenses

of the Association and a portion of the votes in the Association allocated to each Lot. The formula for calculating the Allocated Interests is a "per Lot" basis; that is, each Lot's Allocated Interest shall be one (1) divided by the number of Lots in the Common Interest Community. Notwithstanding the foregoing, certain Common Expenses may be apportioned to particular Lots pursuant to other provisions of this Declaration.

Section 2.3 "Articles" means the Articles of Incorporation for West Dalton Ranch Home Owners' Association, which are on file with the Colorado Secretary of State, and any amendments made to those Articles from time to time.

Section 2.4 "Assessments" means the Annual, Special, and Default Assessments levied pursuant to Article VIII.

Section 2.5 "Association" means the West Dalton Ranch Home Owners' Association, a Colorado nonprofit corporation.

Section 2.6 "Association Documents" means this Declaration, the Articles, and the Bylaws of the Association, and any design guidelines, procedures, rules, regulations, or policies adopted under such documents by the Association.

Section 2.7 "Bylaws" means the Bylaws adopted by the Association, as amended from time to time.

Section 2.8 "Common Elements" means all the real property and improvements thereon, if any, in which the Association owns an interest for the common use and enjoyment of all of the Owners on a nonexclusive basis. Such interest may include, without limitation, estates in fee, for terms of years, or easements.

Section 2.9 "Common Expense" means (i) all expenses expressly declared to be common expenses by this Declaration, or the Bylaws of the Association; (ii) all other expenses of administering, servicing, conserving, managing, maintaining, or repairing the Common Elements; (iii) insurance premiums for the insurance carried under Article VII; and (iv) all expenses lawfully determined to be common expenses by the Executive Board of the Association, including, but not limited to, any allocations to reserves.

Section 2.10 "Common Interest Community" means the West Dalton Ranch community as initially described on Exhibit A and as depicted and described in this Declaration and the Plat and any amendments thereto.

Section 2.11 "Declarant" means Dalton Ranch West, Inc., and its successors and assigns, and is further defined in § 103(12) of the Act.

Section 2.12 "Declaration" means and refers to this Declaration of Covenants, Conditions,

Restrictions, and Easements of West Dalton Ranch, including any amendments and including the Plat.

Section 2.13 "Director" means a member of the Executive Board of the Association.

Section 2.14 "Executive Board" means the governing body of the Association elected to perform the obligations of the Association relative to the operation, maintenance, and management of the Common Interest Community and all improvements on the Common Interest Community.

Section 2.15 "Improvements" means any construction, structure, fence, equipment, fixture or facilities existing or to be constructed in the Common Interest Community, including but not limited to buildings, trees and shrubbery, paving, utility wires, pipes, and light poles.

Section 2.16 "Lot" means a residential dwelling portion of the Common Interest Community, which is designed for separate ownership or occupancy, the boundaries of which are shown on the Plat. For purposes of the Act, "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 and the Plat.

Section 2.17 "Member" means every person or entity who holds membership in the Association.

Section 2.18 "Mortgage" means any mortgage, deed of trust, or other document pledging any Lot or interest therein as security for payment of a debt or obligation. Mortgage is also defined as a Security Interest under the Act. "Mortgagee" means any person named as a mortgagee or beneficiary in any Mortgage, or any successor to the interest of any such person under such Mortgage.

Section 2.19 "Person" means an individual, corporation, trust, partnership, limited liability company, association, joint venture, government, government subdivision or agency or other legal or commercial entity.

Section 2.20 "Plat" means the land survey plat depicting the Common Interest Community, recorded in the records of La Plata County, Colorado on November 8<sup>th</sup>, 2023, at Reception No. 1227393, and any supplements and amendments thereto.

Section 2.21 "Successor Declarant" means any party or entity to whom Declarant assigns any or all of its rights, obligations or interest as Declarant, as evidenced by an assignment or deed of record in the office of the La Plata County Clerk and Recorder, designating such party as a Successor Declarant. Upon such recording, Declarant's rights and obligations under this Declaration shall cease and terminate to the extent provided in such documents.

Each capitalized term not otherwise defined in this Declaration or in the Plat shall have the

same meanings specified or used in the Act.

### ARTICLE III NAME, LOCATION, AND NUMBER OF LOTS

Section 3.1 Name. The name of the project is West Dalton Ranch.

Section 3.2 Description. The entire Common Interest Community is situated in the County of La Plata, State of Colorado, is located on the Property, and is a planned community as defined in the Act.

Section 3.3 Association. The name of the association is West Dalton Ranch Home Owners' Association. Declarant has caused the Association to be incorporated under the laws of the State of Colorado as a nonprofit corporation with the purpose of exercising the functions as herein set forth.

Section 3.4 Maximum Number of Lots. The maximum number of Lots in the Common Interest Community is 51, which is the initial number of Lots created by the Plat. Lots may be consolidated in accordance with Section 5.2.

### ARTICLE IV MEMBERSHIP, VOTING RIGHTS, ASSOCIATION OPERATIONS

Section 4.1 Membership in Association. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. An Owner shall not transfer, pledge or alienate his membership in the Association in any way, except upon the sale of his Lot and then only to the purchaser of his Lot.

Section 4.2 Voting. The Association shall have one class of voting membership, which shall be all Owners, including the Declarant so long as Declarant continues to own an interest in a Lot. Except as otherwise provided for in this Declaration, each Member shall be entitled to vote in Association matters pursuant to this Declaration on the basis of his Allocated Interests, defined in Section 2.2. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised by one person or alternative person appointed by proxy in accordance with the Bylaws. In the absence of a proxy, the vote allocated to the Lot shall be suspended in the event more than one person or entity seeks to exercise the right to vote on any one matter. Any Owner of a Lot that is leased may assign his voting right to the tenant, provided that a copy of a proxy appointing the tenant is furnished to the Secretary of the Association prior to any meeting in which the tenant exercises the voting right. In no event shall more than one vote be cast with respect to any one Lot.

Section 4.3 Period of Declarant Control. Declarant and any Successor Declarant shall have exclusive power to appoint and remove members of the Executive Board and officers of the Association to the fullest extent permitted by § 303 of the Act. This period of Declarant control shall terminate no later than the earlier of: (i) 60 days after conveyance of 75% of the Lots that may be

created in the Common Interest Community to Lot Owners other than a Declarant; (ii) two years after the last conveyance of a Lot by the Declarant in the ordinary course of business; or (iii) two years after any right to add Lots was last exercised.

A. Declarant may voluntarily surrender the right to appoint and remove officers of the Association and members of the Executive Board before termination of the period described above. In that event, the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

B. Not later than 60 days after conveyance of 25% of the Lots that may be created to Lot Owners other than a Declarant, at least one member and not less than 25% of the members of the Executive Board shall be elected by Lot Owners other than the Declarant. Not later than 60 days after conveyance of 50% of the Lots that may be created to Lot Owners other than a Declarant, not less than 33-1/3% of the members of the Executive Board must be elected by Lot Owners other than the Declarant. Not later than the termination of any period of Declarant control, the Lot Owners shall elect an Executive Board of at least three members, at least a majority of whom shall be Lot Owners. The Executive Board shall elect the officers. The Executive Board members and officers shall take office upon election.

C. Notwithstanding any provision of this Declaration or the Bylaws to the contrary, following notice in accordance with § 308 of the Act, the Lot Owners, by a vote of 67% of all Lot Owners present and entitled to vote at a meeting of the Lot Owners at which a quorum is present, may remove a member of the Executive Board with or without cause, other than a member appointed by the Declarant.

Section 4.4 Books and Records. The Association shall make available for inspection, upon request, during normal business hours or under other reasonable circumstances, to Owners, current copies of the Association Documents, the books, records, and financial statements of the Association prepared pursuant to the Bylaws, and minutes of Executive Board and committee meetings. The Association may charge a reasonable fee for copying such materials. The Association shall maintain such books and records as may be required under the Act or by other applicable law.

Section 4.5 Manager. The Association may employ or contract for the services of a manager to whom the Executive Board may delegate certain powers, functions, or duties of the Association, as provided in the Bylaws of the Association.

Section 4.6 Implied Rights and Obligations. 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 any such right or privilege. The Association shall perform all of the duties and obligations expressly imposed upon it by the Association Documents, and every other duty or obligation implied by the express provisions of the Association

Documents or necessary to reasonably satisfy any such duty or obligation.

Section 4.7 Powers of the Association. The Association shall have the power to:

- A. Administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations, and all other provisions set forth in the Declaration, and supplements thereto;
- B. Adopt and amend Bylaws and Rules;
- C. Adopt and amend budgets for revenues, expenditures and reserves in accordance with the Act;
- D. Collect Assessments from Lot Owners;
- E. Collect delinquent assessments by suit or otherwise and to enjoin or seek damages from an Owner as provided in the Declaration and these Bylaws;
- F. Hire and discharge managing agents;
- G. Hire and discharge independent contractors, employees and agents other than managing agents;
- H. Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of or otherwise enforce the Association's Declaration, Bylaws or Rules in the Association's name, on behalf of the Association or two or more Lot Owners on matters affecting the Common Interest Community;
- I. Make contracts and incur liabilities;
- J. Regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- K. Incur such costs and expenses, to designate and remove personnel, and to enter into contracts as may be necessary to keep in good order, condition, and repair all of the Common Elements and items of common personal property as provided herein and in the Declaration;
- L. Establish a bank account or accounts for the common treasury and for all separate funds which are required or may be deemed advisable;
- M. Keep and maintain full and accurate books and records showing all of the receipts and disbursements and to permit examination thereof at any reasonable time by each of the Owners;
- N. Meet at least annually;

- O. Cause additional Improvements to be made as a part of the Common Elements;
- P. Acquire, hold, encumber and convey, in the Association's name, any right, title or interest to real estate or personal property, but Common Elements may be conveyed or subjected to a security interest only pursuant to this Declaration and § 312 of the Act;
- Q. Grant easements, leases, licenses and concessions through or over the Common Elements;
- R. Impose a reasonable charge for late payment of Assessments and levy reasonable fines for violations of the Declaration, the Bylaws, or the Rules;
- S. Impose a reasonable charge for the preparation and recording of amendments to the Declaration and for a statement of unpaid assessments;
- T. Provide for the indemnification of the Association's officers and Executive Board, and maintain Directors' and officers' liability insurance;
- U. Assign the Association's right to future income, including the right to receive Assessments;
- V. Adopt and publish rules and regulations governing the use of the Common Elements and governing the personal conduct of the Members and their guests, and the Association may establish penalties, including, without limitation, the imposition of fines for the infraction of such rules and regulations;
- W. Suspend the voting rights of a Member during any period in which such Member is in default on payment of any Assessment;
- X. Exercise any other powers conferred by the Declaration, these Bylaws or the Act;
- Y. Exercise any other power that may be exercised in Colorado by a nonprofit corporation; and
- Z. Exercise any other power necessary and proper for the governance and operation of the Association.

4.8 Executive Board Powers and Duties; Limitations. The Executive Board shall have, subject to the limitations contained in this Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community. The Executive Board may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community or to elect Members of the Executive Board or determine the

qualifications, powers and duties or terms of office of Executive Board Members, but the Executive Board may fill vacancies in its membership for the unexpired portion of any term.

**ARTICLE V**  
**LOTS AND COMMON ELEMENTS DESCRIPTIONS**

Section 5.1 Lot Boundaries. Boundaries of each Lot created by the Declaration are shown on the Plat, and may hereafter be transferred by using the following legal description:

Lot \_\_\_\_, West Dalton Ranch (Project No. 2023-~~040~~), according to the plat recorded at Reception No. 1227393 on November 8<sup>th</sup>, 2023, La Plata County, Colorado.

Section 5.2 Relocation of Lot Boundaries. The boundaries between adjoining Lots may be relocated by an amendment to the Declaration upon application to the Association by the Owners of the Lots affected by the relocation. Within 60 days after receipt of the application the Association and the appropriate Lot Owners shall prepare and record an amendment that identifies the Lots involved, shows the boundaries as altered, and indicates the Association's consent. The applicants will pay for the costs of preparation of the amendment and its recording, as well as the reasonable consultant fees incurred by the Association if the Association deems it necessary to employ a consultant.

Section 5.3 Common Elements.

A. The Common Elements that are held in fee simple by the Association include the Open Spaces, Fairway Drive, West Dalton Road, and Elkview Court, all as shown on the Plat.

B. In addition, the Association has an 8' wide non-exclusive easement along the rear lot lines of Lots 1 through 11, inclusive, as shown on the Plat (the "Maintenance Easement"), for the purpose of ingress and egress, and the installation, maintenance, replacement, and removal, of the fence, landscape plants, irrigation facilities, and other related features, all of which are intended to serve as a buffer between the Common Interest Community and the adjacent Trimble Crossing community. The Maintenance Easement is a Common Element; however, the Association Members shall not have access to the Maintenance Easement.

C. The utility and drainage easements as shown on the Plat are Common Elements, however the Association Members shall not have access to the utility and drainage easements except those that are located on their own Lots. To create a buffer between adjacent Lots, or between Lots and adjacent Open Space, Declarant may install initial vegetation and/or landscaping plantings within the utility and drainage easements. Declarant may also install irrigation systems within the utility and drainage easements to temporarily support such initial plantings. However, future maintenance of such landscaping plantings, including the irrigation thereof, will be each Lot Owner's responsibility and sole cost.



**ARTICLE VI**  
**MAINTENANCE OF THE COMMON INTEREST COMMUNITY**

**Section 6.1**    Maintenance of Lots.

A.     Each Owner shall be solely responsible for all maintenance and repair of his Lot, including all fixtures and Improvements located therein or on, and is required to maintain the Lot and any Improvements located thereon in a condition of good order and repair. No Owner shall unreasonably damage the value of other Lots by the shoddy upkeep of his Lot.

B.     Utility or service connections, facilities, or other utility equipment and property located in, on, or upon a Lot used solely to supply a service or utility to such Lot shall be owned by the Lot Owner using such utility or service, and all expenses and liabilities for repair and maintenance shall be borne solely by the Lot Owner, who shall have a perpetual easement in and to that part of such other Lots containing such property for purposes of maintenance, repair, and inspection.

C.     No Owner shall construct any structure or Improvements or 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 Lot or construct any addition or Improvement to his Lot without first obtaining the prior written consent of the ARC pursuant to Article XVI.

**Section 6.2**    Owner's Failure to Maintain or Repair. In the event that a Lot and the Improvements thereon are not properly maintained and repaired by an Owner, or in the event that the Improvements on the Lot are damaged or destroyed by an event of casualty and the Owner does not take reasonable measures to diligently pursue the repair and reconstruction of the damaged or destroyed Improvements to substantially repair, replace or reconstruct the same condition in which they existed prior to the damage or destruction, then the Association, after 30 days prior written notice to the Owner and with the approval of the Executive Board, shall have the right to enter the Lot to perform such work as is reasonably required to restore the Lot and the buildings and other Improvements thereon to a condition of good order and repair. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner of the Lot, upon demand. All unreimbursed costs shall be a Default Assessment, for which the Association shall have a lien upon the Lot until reimbursement is made. The lien may be enforced in accordance with Article VIII.

**Section 6.3**    Maintenance by Association. The Association shall maintain and keep the Common Elements in good repair. This maintenance shall include, but shall not be limited to, upkeep, repair and replacement, subject to any insurance then in effect, of all roads, landscaping, signage, irrigation system, and Improvements, if any, located in the Common Elements. The cost of such maintenance shall be funded as provided in Article VIII. In the event the Association does not maintain the Common Elements, Declarant shall have the right, but not the obligation, to do so at the expense of the Association.

Section 6.4 Maintenance Contract. The Association or Executive Board may employ or contract for the services of an individual or maintenance company to perform certain delegated powers, functions, or duties of the Association to maintain the Common Elements. The employed individual or maintenance company shall have the authority to make expenditures upon prior approval and direction of the Executive Board. The Executive Board shall not be liable for any omission or improper exercise by the employed individual or management company of any duty, power, or function so delegated by written instrument executed by or on behalf of the Executive Board.

## ARTICLE VII INSURANCE

Section 7.1 Coverage. To the extent reasonably available, the Association shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, and the Association determines that any insurance described in this Article will not be maintained, the Association shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners and at their last known addresses. The Association shall obtain and maintain:

A. Property Insurance. Property insurance that will cover the Common Elements, any personal property owned by the Association, and the Improvements on the Common Interest Community for broad form covered causes of loss. The property insurance will be for not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of normal exclusions.

B. Liability Insurance. The Association shall obtain and maintain commercial general liability insurance against claims and liabilities arising in connection with the ownership and management of the Common Elements in an amount to be determined by the Association. The insurance shall provide that each Lot Owner is an insured person and shall cover all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements and the activities of the Association.

Insurance policies required by this Section shall provide that: (a) the insurer waives the right to subrogation under the policy against an Owner or any member of an Owner's household; (b) an act or omission of an Owner will not void the policy or be a condition of recovery under the policy; (c) if at the time of loss, there is other insurance in the name of an Owner which covers the same risk, the Association's policy provides primary insurance; (d) losses must be adjusted with the Association; (e) insurance proceeds shall be paid to the Association, or its designated Trustee, to be held in trust for each Owner; and (f) the insurer may not cancel or refuse to renew the policy until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the Association.

Section 7.2 Fidelity Insurance. The Association shall obtain and maintain fidelity insurance to protect against dishonest acts on the part of its officers, directors, trustees, and employees, and on

the part of all others who handle or who are responsible for handling the funds belonging to or administered by the Association. Such fidelity coverage shall name the Association as the insured and shall be written in an amount not less than two months' current assessments, plus reserves, as calculated from the current budget. Such insurance shall contain waivers by the issuer of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions.

Section 7.3 Personal Liability Insurance of Officers and Directors. To the extent obtainable at reasonable cost, appropriate personal liability insurance shall be maintained by the Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and directors on behalf of the Association.

Section 7.4 Other Insurance. The Association may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate with respect to the Association's responsibilities and duties.

Section 7.5 General Insurance Provisions. All insurance coverage obtained by the Association shall be governed by the following provisions:

A. As long as Declarant owns any Lots, Declarant shall be protected by all such policies as an Owner. The coverage provided to Declarant under the insurance policies obtained in compliance with this Article shall not be deemed to protect or be for the benefit of any general contractor engaged by Declarant, nor shall such coverage be deemed to protect Declarant with respect to such claims.

B. The deductible amount, if any, on any insurance policy purchased by the Association may be treated as a Common Expense payable from Annual Assessments or Special Assessments, or as an item to be paid from working capital reserves established by the Association; or alternatively, the Association may treat the expense as an assessment against an Owner whose Lot is specifically affected by the damage or whose negligence or willful act resulted in damage.

C. The insurance coverage described in this Article shall be considered minimum coverage and the Association shall be obligated to secure and maintain such other or additional coverage as may be required by law, including, without limitation, § 313 of the Act.

D. Except as otherwise provided by the Association pursuant to this Article, insurance premiums shall be a Common Expense to be paid by regular Assessments levied by the Association.

E. The named insured under any such policies shall include Declarant, until all the Lots have been conveyed, and the Association, as a trustee for the Owners and their Mortgagees, as their interests may appear, or the authorized representative of the Association who shall have exclusive authority to negotiate losses and receive payments under such policies.

F. In no event shall the insurance coverage obtained and maintained pursuant to this

Article be brought into contribution with insurance purchased by the Owners or their Mortgagees.

## ARTICLE VIII ASSESSMENTS FOR COMMON EXPENSES

Section 8.1 Obligation. Declarant, for each Lot owned by Declarant, hereby covenants, and each Owner, by accepting a deed for a Lot, is deemed to covenant to pay to the Association: (i) the Periodic Assessments imposed by the Executive Board as necessary to meet the Common Expenses of maintenance and management of the Common Elements and to perform the functions of the Association; (ii) Special Assessments for capital improvements and other purposes as stated in this Declaration, if permitted by law; and (iii) Default Assessments which may be assessed against a Lot for the Owner's failure to perform an obligation under the Association Documents or because the Association has incurred an expense on behalf of the Owner under the Association Documents.

Section 8.2 Purpose of Assessments. The Assessments shall be used exclusively to promote the health, safety, and welfare of the Owners and occupants of the Common Interest Community, and for the improvement and maintenance of the Common Elements, all as more fully set forth in this Declaration.

Section 8.3 Budget. Within 90 days after the adoption of any proposed budget for the Association, the Executive Board shall mail, by first-class mail, or otherwise deliver, including by posting on the Association's website, a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider the budget not less than 14 or more than 60 days after mailing or other delivery of the summary. Unless at that meeting a majority of all Owners reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board.

Section 8.4 Periodic Assessments. Periodic Assessments for Common Expenses made shall be based upon the budget adopted in accordance with Section 8.3, subject to this Article. Estimated Common Expenses shall include, but shall not be limited to, the cost of routine maintenance of the Common Elements; expenses of management; taxes and special governmental assessments pertaining to the Common Elements and insurance premiums for insurance coverage as deemed desirable or necessary by the Association; landscaping, care of grounds within the Common Elements; wages; common water and utility charges for the Common Elements; legal and accounting fees; management fees; expenses and liabilities incurred by the Association under or by reason of this Declaration; payment of any default remaining from a previous assessment period; and the creation of a reasonable contingency or other reserve or surplus fund for general, routine maintenance of the Common Elements on a periodic basis, as needed. Periodic Assessments shall be payable on a prorated basis each year in advance and shall be due on the first day of each year, or such other periods as the Executive Board may determine. The omission or failure of the Association to fix the Periodic Assessments for any assessment period shall not be deemed a waiver, modification, or release of the Owners from their obligation to pay the same. The Association shall have the right, but

not the obligation, to make prorated refunds of any Periodic Assessments in excess of the actual expenses incurred in any fiscal year.

Section 8.5 Common Elements Working Fund. The Association or Declarant shall require each Owner of each Lot (other than Declarant) to make a non-refundable payment to the Association in the amount of \$500.00 which sum shall be held, without interest, by the Association as a working fund. The working fund shall be collected and transferred to the Association at the time of closing of the initial sale by Declarant of each Lot. No refund or proration of this working fund shall be made by the Association upon a subsequent sale of a Lot; it shall be the responsibility of each Owner to determine with a subsequent buyer of Lot whether or not to take the working fund contribution into consideration in the sales agreement. The working fund shall be maintained for the use and benefit of the Association. Such payment shall not relieve an Owner from making regular payments of Assessments as they become due. The amount of the contribution to the working fund may be altered by the Executive Board after the period of Declarant control described in Article IV.

Section 8.6 Apportionment of Periodic Assessments. Each Owner shall be responsible for his share of the Common Expenses in accordance with the Allocated Interests, subject to the provisions of this Article.

Section 8.7 Special Assessments. In addition to the Periodic Assessments authorized by this Article, the Association may levy in any fiscal year one or more Special Assessments, if permitted by applicable law, payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of improvements within the Common Elements, or for any other expense incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Association to incur expense, but shall be construed to prescribe the manner of assessing expenses authorized by other section of this Declaration and in acting under this Section, the Association shall make specific references to this Section. Any amounts assessed pursuant to this Section shall be assessed to Owners in the same proportion as provided for Periodic Assessments, subject to the requirements that any extraordinary maintenance, repair, or restoration work on fewer than all of the Lots shall be borne by the Owners of those affected Lots only; and any extraordinary insurance costs incurred as a result of the value of a particular Owner's residence or the action of a particular Owner (or his agents, servants, guests, tenants, or invitees) shall be borne by that Owner. Notice in writing in the amount of such Special Assessments and the time for payment of the Special Assessments shall be given promptly to the Owners, and no payment shall be due less than 30 days after such notice shall have been given.

Section 8.8 Default Assessments. All monetary fines assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents, shall be a Default Assessment and shall become a lien against such Owner's Lot which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least 30 days

prior to the due date.

**Section 8.9 Effect of Nonpayment; Assessment Lien.** Any assessment installment, whether pertaining to any Periodic, Special, or Default Assessment, which is not paid within 30 days of its due date shall be delinquent. If an Assessment installment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

- A. Assess a late charge for each delinquency in such amount as the Association deems appropriate;
- B. Assess an interest charge from the date of delinquency at the yearly rate established by the Executive Board, not to exceed 21% per annum;
- C. Suspend the voting rights of the Owner during any period of delinquency;
- D. Accelerate all remaining Assessment installments so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;
- E. Bring an action at law against any Owner personally obligated to pay the delinquent Assessments; and
- F. File a statement of lien with respect to the Lot and proceed with foreclosure as set forth below.

Assessments chargeable to any Lot shall constitute a continuing lien on such Lot, including any improvement on the Lot. To evidence the lien created under this Section, the Association may, but is not required to, prepare a written notice setting forth (i) the address of the Association, (ii) the amount of such unpaid indebtedness, (iii) the amount of accrued penalty on the indebtedness, (iv) the name of the Owner of the Lot, and (v) a description of the Lot. The notice shall be signed and acknowledged by the President or Vice President of the Association, the Association's attorney, or by the Manager, and the Association shall serve the notice upon the Owner by mail to the address of the Lot or to such other address as the Association may have in its files for such Owner. At least ten days after the Association mails the Owner such a notice, the Association may record the notice in the office of the Clerk and Recorder of La Plata County, Colorado. Such lien for Assessments shall attach from the due date of the Assessment. 30 days following the date the Association mails the notice, the Association may institute foreclosure proceedings against the defaulting Owner's Lot in the manner for foreclosing a mortgage on real property under Colorado law. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien, and all reasonable attorneys' fees incurred in connection with the enforcement of the lien. The Association shall have the power to bid on the Lot at a foreclosure sale and to acquire and hold, lease, mortgage, and convey the same.

The Association shall be entitled to costs and reasonable attorney fees in any action brought by the Association under this Section.

Section 8.10 Personal Obligation. The amount of any Assessment chargeable against any Lot shall be a personal and individual debt of the Owner of the Lot. No Owner may exempt himself from liability for the Assessment by abandonment of his Lot or by waiver of the use or enjoyment of all or part of the Common Elements. Suit to recover a money judgment for unpaid Assessments, any penalties and interest, thereon, the cost and expenses of such proceedings, and all reasonable attorneys' fees in connection therewith shall be maintainable without foreclosing or waiving the Assessment lien provided in this Declaration.

Section 8.11 Successor's Liability for Assessment. In addition to the personal obligation of each Owner to pay all Assessments and the Association's perpetual lien for such Assessments, all successors to the fee simple title of a Lot, except as provided below, shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees against such Lot without prejudice to such successor's right to recover from any prior Owner any amounts paid by such successor. This liability of a successor shall be personal and shall not terminate upon termination of such successor's fee simple interest in the Lot. In addition, such successor shall be entitled to rely on the Statement of Status of Assessment Payment by or on behalf of the Association under this Article.

Section 8.12 Subordination of Lien. The lien of the Assessments provided for in this Declaration shall be subordinate to (i) the lien of real estate taxes and special governmental assessments, (ii) liens and encumbrances recorded prior to the recordation of the Declaration, and (iii) liens for all sums unpaid for a first lien security interest on a Lot recorded before the date on which the assessment sought to be enforced became delinquent, subject to the priority granted to the Association's lien under the Act. The lien of the Assessments shall be superior to and prior to any homestead exemption provided now or in the future by the laws of the State of Colorado. An Owner's transfer of any Lot shall not affect the Association's lien except that sale or transfer of any Lot pursuant to foreclosure of any first mortgage, or any proceeding in lieu thereof, or cancellation or forfeiture shall only extinguish the Association's liens as provided in the Act. The amount of such extinguished lien may be reallocated and assessed to all Lots as a Common Expense at the direction of the Executive Board. No sale or transfer shall relieve the purchaser or transferee of a Lot from liability for, or the Lot from the lien of, any Assessments made after the sale or transfer.

Section 8.13 Notice to Mortgagees. The Association shall report to any Mortgagee any unpaid Assessments remaining unpaid for longer than 60 days after the same shall have become due, if such Mortgagee first shall have furnished to the Association written notice of the Mortgage and a request for notice of unpaid Assessments. Any Mortgagee holding a lien on a Lot may pay any unpaid Assessment payable with respect to such Lot, together with any and all costs and expenses incurred with respect to the lien, and upon such payment that Mortgagee shall have a lien on the Lot for the amounts paid with the same priority as the lien of the Mortgage.

Section 8.14 Statement of Status of Assessment Payment. The Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee, upon written request, delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of the unpaid assessments currently levied against such Owner's Lot. The statement shall be furnished within 14 calendar days after receipt of the request and is binding on the Association, the Executive Board and every Owner. If no statement is furnished to the Owner or holder of a security interest or their designee, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party, the Association shall have no right to assert a lien upon the Lot for unpaid assessments which were due as of the date of the request.

## ARTICLE IX DAMAGE OR DESTRUCTION

Section 9.1 Damage to or Destruction of Common Interest Community. The Association shall promptly repair or replace any portion of the Common Interest Community for which insurance is required according to this Declaration and the Act or for which insurance is carried by the Association (the "Association-Insured Property"), unless the Common Interest Community is terminated; repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety; or 67% of the Owners vote not to rebuild. As soon as practical after the damage occurs and any required estimates have been obtained, the Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed property. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction of any damage to the Association-Insured Property, and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

Section 9.2 Funds for Repair and Reconstruction. Proceeds received by the Association from any hazard insurance carried by the Association shall be used to repair and reconstruct the Association-Insured Property. If said proceeds are insufficient to pay the estimated or actual cost of such repair or reconstruction, or if upon completion of such work the insurance proceeds for the payment of such work are insufficient, the Association may, pursuant to Article VIII, but subject to applicable law, levy, assess, and collect in advance from the Owners, without the necessity of a special vote of the Owners, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or replacement.

## ARTICLE X CONDEMNATION

Section 10.1 Rights of Owners. Whenever all or any part of the Common Elements shall be taken by any authority having power of condemnation or eminent domain or whenever all or any part of the Common Elements is conveyed in lieu of a taking under thereof of condemnation by the



Executive Board acting as attorney-in-fact for all Owners under instructions from any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice of the taking or conveying. The Association shall act as attorney-in-fact for all Owners in the proceeding incident to the condemnation proceeding, unless otherwise prohibited by law.

Section 10.2 Partial Condemnation, Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Association as trustee for the Owners, and the award shall be disbursed in equal shares per Lot among the Owners, first to the Mortgagees, if any, and then to the Owners, as their interests appear.

Section 10.3 Complete Condemnation. If all of the Common Interest Community is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration shall terminate, and the portion of the condemnation award attributable to the Common Elements shall be distributed as provided in Section 10.2 above.

## ARTICLE XI DURATION OF COVENANTS AND AMENDMENT

Section 11.1 Term. The covenants, easements, and restrictions of this Declaration shall run with and bind the Property in perpetuity, subject to the termination provisions of the Act.

Section 11.2 Amendment. This Declaration, or any provision of it, may be amended at any time by the affirmative vote or agreement of Owners holding no less than 67% of the votes and signed by Declarant (if the amendment is proposed during the period of Declarant control as described in Article IV). Any Amendment must be executed by the President of the Association and recorded, and approval of such amendment may be shown by attaching a certificate of the Secretary of the Association to the recorded instrument certifying that the affirmative vote or agreement of a sufficient number of Owners approving the amendment are on file in the office of the Association. The procedure for amendment must follow § 217 of the Act.

Section 11.3 Nonmaterial Amendments by Declarant. Declarant may amend, without the consent of the Owners, the Declaration or the Plat to correct typographical, clerical, or technical errors and to comply with the standards, requirements, or guidelines of recognized secondary mortgage markets and similar agencies, the department of housing and urban development, the federal housing administration, the veterans administration, the federal home loan mortgage corporation, the government national mortgage association, or the federal national mortgage association.

Section 11.4 Termination. This Declaration shall not be revoked, nor shall the Common Interest Community be terminated, except as provided in Article X regarding total condemnation, without the consent of 67% of the Owners evidenced by a written instrument duly recorded. Termination of the Common Interest Community may be accomplished only in accordance with § 218 of the Act.

Section 11.5 Limitation of Challenges. An action to challenge the validity of an amendment adopted by the Association pursuant to this Article may not be brought more than one year after the amendment is recorded.

## ARTICLE XII PROTECTIVE COVENANTS

Section 12.1 Improvements Prohibited. No used or second-hand structure, no building of a temporary character, mobile home, house trailer, tent, shack, or outbuilding shall be placed or used on the Common Interest Community, either temporarily or permanently; except those items that are necessary for construction may be used during the period extending no later than (i) twelve 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 structures may be subject to reasonable rules of the Association. Prior to the erection of any Improvement on a Lot, the Owner must obtain written approval of the ARC in accordance with Article XIV.

Section 12.2 Signs. Signs, billboards, posterboards, or advertising structures, including, but not limited to "For Sale", "For Rent", or similar real estate signs shall be in accordance with the Guidelines.

Section 12.3 Trash. No trash, ashes, or other refuse or debris may be thrown or dumped on the Common Interest Community. The burning of refuse outdoors shall not be permitted. No incinerators or other device for the burning of refuse indoors shall be constructed, installed, or used except as approved by the Executive Board. Waste materials, garbage, and trash shall be kept in bear-proof, sanitary containers, enclosed and screened from public view, protected from disturbance, and disposed of with reasonable promptness.

Section 12.4 Pets. Owners may keep pets, but not more than four (4) per Lot, with a maximum of three dogs. Any pet causing or creating a nuisance or unreasonable disturbance or noise may be permanently removed from the Common Interest Community upon 3 days written notice following Notice and Hearing from the Executive Board, following applicable Policies and Procedures. Owner(s) shall hold the Association harmless from any claim resulting from the behavior of their pets.

Section 12.5 Noxious or Offensive Activity. No noxious or offensive activity shall be conducted in any Lot, nor shall anything be done or placed on a Lot or the Common Interest Community that is or may become a nuisance or cause embarrassment, disturbance, or annoyance to others.

Section 12.6 Maintenance of Lots and Outside Storage. Every Lot (including the Improvements thereon) shall be kept and maintained by the Owner thereof in a clean, safe, and attractive condition and in good repair; and no lumber, grass, shrub or tree clippings, plant waste, metals, building materials, scrap, refuse or trash shall be kept, stored, or allowed to accumulate in or on any Lot.

Section 12.7 Annoying Lights, Sounds, or Odors. No lights shall be emitted from any Lot that are unreasonably bright or cause unreasonable glare; no sound shall be emitted from any Lot that is unreasonably loud or annoying; and no odor shall be emitted from any Lot that is noxious or unreasonably offensive to other Owners.

Section 12.8 No Firearms. No hunting, target practice, or discharge of firearms is permitted within the Common Interest Community.

Section 12.9 Natural State. No disturbance of the natural state of the Common Interest Community, including the removal of living trees, plants, shrubs, bushes, sagebrush, grass, or topsoil, is permitted without the consent in writing of the Association.

Section 12.10 Restrictions on Use No part or parcel of the Lots shall be used for purposes other than residential purposes. Determination as to whether use is incidental or accessory to single-family residential purposes shall be made by the Association, but under no circumstance shall such incidental or accessory use be construed to permit the carrying on of any trade, business, profession, or employment (other than a home occupation as may be permitted under applicable zoning codes), or use of the Lot for a boarding house.

Section 12.11 Leasing. Leasing or renting of a dwelling or any portion thereof shall be permitted in accordance with the restrictions and conditions of this Article XII and any rules and regulations adopted by the Executive Board. Any dwelling that is leased shall be leased only in its entirety; separate rooms, floors or other areas within a dwelling may not be separately leased unless the dwelling is owner-occupied or the partial lease is to a caretaker in the Owner's temporary absence.

All leases shall have a minimum initial term of at least thirty (30) days. No dwelling may be subleased and no lease may be assigned during such minimum initial term. In the event of termination of a lease after the tenant has taken occupancy and prior to the end of such minimum initial term, the Owner may not enter into a new lease with a term commencing prior to the date on which the previous lease would have expired without prior approval of the Board, which shall not be granted unless the Board determines, after consideration of the facts and circumstances, that the Owner acted in good faith with no intent to circumvent the requirements of this subsection and could not reasonably have anticipated the early termination of the previous lease at the time the lease was signed. Vacation and short-term rentals are permitted so long as in compliance with the 30-day restriction set forth above and so long as said vacation and short-term rentals comply with any applicable municipal and governmental ordinances or regulations pertaining to vacation rentals.

All leases shall be in writing and shall disclose that the tenants and all occupants of the leased dwelling are bound by and obligated to comply with the Association Documents. Notwithstanding the foregoing, the Association Documents shall apply regardless of whether such

a provision is specifically set forth in the lease. The Owner must provide the tenant with copies of the Association Documents.

Within ten (10) days of a lease being signed, the Owner of the leased dwelling shall provide to the Association's Secretary or Property Manager, contact information for the tenant including the name, address, phone number or other additional information about the tenant the Board may reasonably require.

Section 12.12 House Number. Each dwelling shall have a house number that will comply with the Guidelines.

Section 12.13 Vehicles. Subject to the public-policy-based permissions contained in § 106.5 of the Act, automobiles and pickup trucks shall be parked in driveways or inside garages only. No trailers, motor homes, recreational vehicles, snowmobiles, or boats shall be stored or operated within the Common Interest Community, except inside a garage; such vehicles may be temporarily parked on a driveway while being loaded/unloaded.

The Association shall not prohibit the parking of a motor vehicle by the occupant of a unit on a street, driveway, or guest parking area in the common interest community if the vehicle is required to be available at designated periods at such occupant's residence as a condition of the occupant's employment and all of the following criteria are met:

- (I) The vehicle has a gross vehicle weight rating of ten thousand pounds or less;
- (II) The occupant is a bona fide member of a volunteer fire department or is employed by a primary provider of emergency fire fighting, law enforcement, ambulance, or emergency medical services;
- (III) The vehicle bears an official emblem or other visible designation of the emergency service provider; and
- (IV) Parking of the vehicle can be accomplished without obstructing emergency access or interfering with the reasonable needs of other unit owners or occupants to use streets, driveways, and guest parking spaces within the common interest community.

Section 12.14 Conduct of Occupant. No immoral, improper, offensive or unlawful use may be made of the Common Interest Community. Lot Owners shall comply with and conform to all applicable laws and regulations of the United States and of the State of Colorado and all ordinances, rules and regulations of the County of La Plata. The violating Lot Owner shall hold the Association and other Lot Owners harmless from all fines, penalties, costs and prosecutions for any violation or noncompliance.

Section 12.15 Inseparability. Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of a Lot and improvements thereon shall be presumed to be a gift, devise, bequest, transfer, encumbrance, or conveyance of the entire Lot, including each easement, license, and all other appurtenant rights created by this Declaration.

Section 12.16 No Partition. The Common Elements shall be owned by the Association, and no Owner, group of Owners, or the Association shall bring any action for partition or division of the Common Elements.

### ARTICLE XIII EASEMENTS AND LICENSES

Section 13.1 Existing Easements. The Common Interest Community shall be subject to all easements shown on the Plat, those of record, those provided for in the Act, and as otherwise set forth in this Article.

Section 13.2 Owner's Easement Across Common Elements. Every Owner shall have an easement across the Common Elements, which easement shall be appurtenant to and shall pass with the title to every Lot, subject to the right of the Declarant and/or the Association to dedicate or transfer all or part of the Common Elements to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association. No such dedication or transfer by the Association shall be effective unless an instrument signed by 80% of the Lot Owners agreeing to such dedication or transfer has been recorded in the Records.

Section 13.3 Reserved Easements. Declarant reserves easements on, over, and under the Common Interest Community to exercise its Development and Declarant Rights and for construction, maintenance, repair, replacement, and reconstruction of poles, wires, pipes, and conduits for lighting, heating, electricity, gas, telephone, drainage, and any other public or quasi-public utility service purposes, and for sewer and pipes of any kind.

### ARTICLE XIV ARCHITECTURAL REVIEW

Section 14.1 Architectural Review Committee. There is hereby established an Architectural Review Committee ("ARC"), which shall be responsible for the establishment and administration of Architectural and Design Guidelines ("Guidelines") to carry out the purposes and intent of this Declaration.

Section 14.2 General Authority of Architectural Review Committee. The ARC will review, study and either approve or reject proposed Improvements on the Property, in compliance with this Declaration and as further set forth in the Guidelines, as they may be amended from time to time. No Improvement will be erected, placed, reconstructed, replaced, repaired or otherwise altered, nor will any construction, repair or reconstruction be commenced until plans for the Improvements shall have been approved by the ARC. Improvements that are completely within a dwelling structure may be undertaken without such approval.

Section 14.3 Submittal. In addition to any requirement of submitting Improvement plans

and specifications for approval to the appropriate division of the La Plata County government, the Owner of each Lot shall submit the plans and specifications for the construction, alteration, or addition of Improvements thereon to the ARC, whose prior consent shall be required before any such Improvements are commenced.

Section 14.4 Committee Discretion. The ARC will exercise its best judgment to see that all Improvements conform and harmonize with any existing structures as to external design, quality and type of construction, seals, materials, color, location on the building site, height, grade and finished ground elevation, landscaping, and the schemes and aesthetic considerations set forth in the Guidelines and other Association Documents. The ARC, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements. The approval by the ARC of Improvements on the Property shall carry no precedential weight when reviewing subsequent requests for approvals, and the ARC shall not be required to approve requests for the same or similar Improvements.

Section 14.5 Guidelines. The Guidelines may include, among other things, at the sole discretion of the ARC, the restrictions and limitations set forth below:

- A. Procedures and necessary fees for making application to the ARC for design review approval, including the documents to be submitted and the time limits in which the ARC must act to approve or disapprove any submission;
- B. Time limitations for the completion of the Improvements for which approval is required;
- C. Designation of the building site on a Lot and the maximum developable area of the Lot;
- D. Minimum and maximum square foot areas of living space that may be developed on any Lot;
- E. Landscaping regulations, with limitations and restrictions prohibiting the removal or requiring the replacement of existing trees, the type and use of plants, and other practices benefiting the protection of the environment, conservation of water, aesthetics and architectural harmony of West Dalton Ranch;
- F. General instructions for the construction, reconstruction, refinishing or alteration of any Improvement, including any plan to excavate, fill or make any other temporary or permanent change in the natural or existing surface contour or drainage or any installation or utility lines or conduits on the Property, addressing matters such as loading areas, waste storage, trash removal, equipment and materials storage, grading, transformers and meters.

The Board may amend, repeal and augment the Guidelines from time to time, in the Board's sole discretion. The Guidelines will be binding on all Owners and other persons governed by this Declaration.

Section 14.6 Committee Membership. The ARC will be composed of not less than three (3) persons nor more than five (5) persons. The ARC need not include any Member of the Association. All ARC members will be appointed, removed and replaced by Declarant, in its sole discretion, until all the Lots comprising the Property are sold, unless otherwise required by the Act, or until such earlier time as Declarant may give notice to the Association of its waiver of control over the ARC. After the period of Declarant's control of the ARC as set forth in this Section, the members of the ARC will be appointed or removed by the Board. The ARC may include one or more paid professionals.

A. The term of office of each member of the ARC will be two (2) years, and continuing until his successor shall have been appointed. Should an ARC member die, retire or become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed as provided below.

B. So long as Declarant appoints the ARC, Declarant will appoint the replacement. After the period of Declarant's control of the ARC, the replacement shall be elected by the Board.

Section 14.7 Expenses. Except as provided in this Section below, all expenses of the ARC will be paid by the Association and will constitute a Common Expense. The ARC will have the right to charge a fee for each application submitted to it for review, in an amount that may be established by the ARC from time to time, and such fees will be collected by the ARC and remitted to the Association to help defray the expenses of the ARC operation. Further, the ARC may retain the services of a third party consultant to assist the ARC in reviewing a particular application. In such event, the ARC may charge the applicant for the professional fees incurred in retaining such consultant.

Section 14.8 Limitation of Liability. The ARC will use reasonable judgment in approving or disapproving plans and specifications submitted to it. Neither the ARC nor any individual ARC member will be liable to any person for any official act of the ARC in connection with submitted plans and specifications, except to the extent the ARC or any individual ARC member acted with malice or wrongful intent. Approval by the ARC does not necessarily assure approval by the appropriate governmental authority. Notwithstanding that the ARC has approved plans and specifications, neither the ARC nor any of its members will be responsible or liable to any Owner, developer or contractor with respect to any loss, liability, or damage arising out of the Improvements. Neither the Executive Board, the ARC, nor any agent thereof, nor Declarant, nor any of its partners, employees, agents or consultants will be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Association Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the ARC will be defended and indemnified by the Association

in any such suit or proceeding which may arise by reason of the ARC's decisions. The Association, however, will not be obligated to indemnify each member of the ARC to the extent that any such member of the ARC is adjudged to be liable for malice or wrongful intent in the performance of his duty as a member of the ARC, unless and then only to the extent that the court in which such action or suit may be brought determines upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expense as such court shall deem proper.

Section 14.9 Enforcement. Any member or authorized consultant of the ARC, or any authorized officer, Director, employee or agent of the Association may enter upon any Lot at any reasonable time after notice to the Owner, without being deemed guilty of trespass, in order to inspect Improvements constructed or under construction on the Lot to determine whether the Improvements have been or are being built in compliance with the Association Documents and the plans and specifications approved by the ARC.

Every violation of these covenants is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed for such violation by law or equity against a Member will be applicable. Without limiting the generality of the foregoing, these covenants may be enforced as provided below:

A. The ARC may adopt a schedule of fines for failure to abide by the ARC rules and the Guidelines, including fines for failure to obtain any required approval from the ARC.

B. The Association, upon request of the ARC and after reasonable notice to the offender and, if different, to the Owner, may enter upon any Lot at any reasonable time after notice to the Owner, without being deemed guilty of trespass, and remove any Improvement constructed, reconstructed, refinished, altered or maintained in violation of these covenants. The Owner of the Improvement will immediately reimburse the Association for all expenses incurred in connection with such removal. If the Owner fails to reimburse the Association within thirty days after the Association gives the Owner notice of the expenses, the sum owed to the Association will bear interest at the default rate from the date of the advance by the Association through the date of reimbursement in full, and all such sums and interest will be a Default Assessment enforceable as provided in this Declaration.

C. All Improvements commenced on the Property will be prosecuted diligently to completion and will be completed within fifteen (15) months after commencement, unless an exception is granted in writing by the ARC. If an Improvement is commenced and construction is then abandoned for more than ninety days, or if construction is not completed within the required one year period, then after notice and opportunity for hearing as provided in the Bylaws, the Association may impose a fine per day of such reasonable amount as the Association may set to be charged against the Owner of the Lot until construction is resumed, or the Improvement is completed, as applicable, unless the Owner can prove to the satisfaction of the Executive Board that such abandonment is for circumstances beyond the Owner's control. Such charges will be a Default



Assessment and lien as provided in this Declaration.

Section 14.10 Binding Effect. The actions of the ARC in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it or with respect to any other matter before it, will be conclusive and binding on all interested parties.

**ARTICLE XV  
DEVELOPMENT RIGHTS AND OTHER SPECIAL DECLARANT RIGHTS**

Section 15.1 Reservation of Development Rights. The Declarant reserves the following Development Rights:

A. The right to construct underground utility lines, pipes, wires, ducts, conduits and other facilities across any portion of the Common Interest Community for the purpose of furnishing utility and other services to buildings and Improvements to be constructed on the Common Interest Community.

B. The right to withdraw and grant easements and licenses to public utility companies and to convey Improvements within those easements anywhere in the Common Interest Community not occupied by buildings, for the purposes mentioned above.

C. The rights to create Lots, Common Elements and Limited Common Elements; to subdivide Lots; to convert Lots to General Common Elements; and to withdraw property from the Common Interest Community.

Section 15.2 Limitations on Development Rights. The Development Rights reserved in this Article are limited as follows:

A. the Development Rights may be exercised at any time, but not more than ten years after the recording of the initial Declaration; and

B. the quality of construction of any Improvements to be created on the Common Interest Community under the Development Rights shall be consistent with the quality of those constructed pursuant to this Declaration as initially recorded.

Section 15.3 Special Declarant Rights. The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Common Interest Community:

A. to complete Improvements indicated on the Plat;

B. to exercise a Development Right reserved in the Declaration;

C. to maintain sales offices, management offices, and signs advertising the Common Interest Community and models;

D. to use easements through the Common Elements and Lots for the purpose of making Improvements within the Common Interest Community;

E. to appoint or remove a director of the Association or an Association member during a period of Declarant control subject to the provisions of Article IV of this Declaration; and

F. to make the Common Interest Community subject to a master association and to merge or consolidate the Common Interest Community with another similar common interest community.

Section 15.4 Construction; Declarant's Easement. The Declarant reserves the right to perform warranty work, repairs and construction work in Lots and Common Elements, to store materials in secure areas, and to control and have the right of access to work and repairs until completion. All work may be performed by the Declarant without the consent or approval of the Association. The Declarant has an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights, whether arising under the Act or reserved in this Declaration. This easement includes the right to convey access, utility and drainage easements to the County of La Plata or the State of Colorado.

Section 15.5 Interference with Special Declarant Rights. Neither the Association nor any Lot Owner may take any action or adopt any Rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

## ARTICLE XVI GENERAL PROVISIONS

Section 16.1 Enforcement. Except as otherwise provided in this Declaration, the Executive Board, Declarant, or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of the Declaration. Failure by the Executive Board of the Association, Declarant, or by any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter. All reasonable attorney's fees and costs incurred by the Declarant or the Association in a suit to enforce the terms hereof shall, if the Declarant or the Association prevails in such action, be recoverable from the losing party.

Section 16.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 16.3 Conflicts. In case of conflict between this Declaration and the Articles and the

Bylaws of the Association, this Declaration shall control. In case of conflict between the Articles and Bylaws, the Articles shall control. The Documents are intended to comply with the requirement of the Act. If there is any conflict between the Documents and the provisions of the Act, the provisions of the Act shall control.

Section 16.4 Captions. The captions contained in the Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Documents or the intent of any provision thereof.

Section 16.5 Gender. The use of the masculine gender refers to the feminine gender, and vice versa, and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so requires.

[Signature Page for Declaration of West Dalton Ranch]

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this 2  
day of November, 2023.

Dalton Ranch West, Inc.,  
a Colorado corporation

By: Kurt D. Carter  
Kurt D. Carter, President

STATE OF Colorado )  
County of LaPlatz ) ss.

The foregoing instrument was acknowledged before me this 2 day of November  
2023, by Kurt D. Carter, President of Dalton Ranch West, Inc., a Colorado corporation, Declarant.  
Witness my hand and official seal.

My commission expires: 6/2/26 Mel B  
Notary Public

MELISSA BARTHEL  
Notary Public  
State of Colorado  
Notary ID # 20144021368  
My Commission Expires 06-02-2026

EXHIBIT A TO THE DECLARATION

**Legal Description**

West Dalton Ranch, Project No. 2023-0040, according to the final plat thereof filed for record

November 8<sup>th</sup> under Reception No. 1227393, County of La Plata, State of Colorado.  
2023