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**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR  
PARADISE VILLAGE AT ST. MICHAEL'S OWNERS ASSOCIATION, INC.**

**JULY 2006**

When recorded return to:

Linda Naticchioni  
Meyer Farm Development, Inc.  
3050 67<sup>th</sup> Avenue, Suite 200  
Greeley, CO 80634

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**DECLARATION OF COVENANTS, CONDITIONS  
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PARADISE VILLAGE AT ST. MICHAEL'S OWNERS ASSOCIATION, INC.**

THIS DECLARATION is made and entered into this 24 day of July, 2006, by Meyer Farm Development, Inc., a Colorado limited liability company and Cardinal Homes, LLC, hereinafter referred to as the "Declarant."

**RECITALS**

- A. The Declarant is the owner of that certain real property located in the County of Weld, State of Colorado, legally described on Exhibit "A" attached hereto and incorporated herein by reference ("Real Estate").
- B. The Declarant desires to create a Common Interest Community on the Real Estate.
- C. The Declarant has caused to be incorporated under the laws of the State of Colorado **PARADISE VILLAGE AT ST. MICHAEL'S OWNERS ASSOCIATION, INC.**, a nonprofit corporation for the purpose of exercising the functions herein set forth.

**ARTICLE I. SUBMISSION OF REAL ESTATE**

The Declarant hereby publishes and declares that the Real Estate shall be held, sold, conveyed, transferred, leased, subleased, and occupied subject to the foregoing recitals and the following easements, covenants, conditions and restrictions which shall run with the Real Estate and shall be binding upon and inure to the benefit of all parties having any right, title or interest in the Real Estate or any portion thereof, their heirs, personal representatives, successors and assigns.

**ARTICLE II. DEFINITIONS**

Section 1: When used in this Declaration, unless the context clearly indicates otherwise, capitalized terms not otherwise defined in the Plat of the Real Estate shall have the meanings provided in the following sections of this Article:

- A. "Allocated Interests" shall mean and refer to the Common Expense Liability and votes in the Association.
- B. "Approval" or "Consent" shall mean securing the prior written approval or consent as required herein before doing, making or suffering that for which such approval or consent is required.
- C. "Bylaws" shall mean and refer to any instruments, however denominated, which are adopted by the Association for the regulation and management of the Association, including amendments to those instruments.
- D. "Common Elements" shall mean and refer to all portions of the Common Interest Community other than a Lot, including all property that may be owned by the Association and used for the common use and enjoyment of the Owners.
- E. "Common Expense Liability" shall mean and refer to the liability for Common Expenses allocated to each Lot pursuant to this Declaration.
- F. "Common Expenses" shall mean and refer to expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves. Such Common Expenses may include expenses relative to certain services provided by or through the Association and benefiting only certain Lots, which benefited Lots shall be solely allocated such expenses.
- G. "Common Interest Community" shall mean and refer to the Real Estate and all improvements constructed thereon.
- H. "Declarant" shall mean Meyer Farm Development, Inc. and/or Cardinal Homes, LLC, its successors and assigns.



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- I. "Declaration" shall mean and refer to this Declaration, including any amendments hereto and also including, but not limited to, plats of the Real Estate recorded in the Clerk and Recorder's Office of Weld County, Colorado.
- J. "Documents" shall mean and refer to this Declaration, the Plat as recorded and filed, the Articles of Incorporation, the Bylaws, and the Rules and Regulations as they may be amended from time to time, together with any exhibit, schedule or certificate accompanying such Documents.
- K. "Executive Board" shall mean and refer to the Executive Board of the Association as defined in the Bylaws.
- L. "Identifying Number" shall mean and refer to a symbol or address that identifies only one (1) Lot in the Common Interest Community.
- M. "Insurer" shall mean and refer to any governmental agency or authority that insures or guarantees a Mortgage and who has provided written notice of such interest to the Association. An Insurer must notify the Association in writing of its name and address and inform the Association that it has insured or guaranteed a First Security Interest in a Lot. It must provide the Association with the Lot number and address of the Lot on which it is the insurer or guarantor of a Security Interest. Such notice shall be deemed to include a request that the Insurer be given the notices and other rights described in the Declaration.
- N. "Lot" shall mean and refer to a physical portion of the Common Interest Community which is designated for separate ownership or occupancy and the boundaries of which are described in or determined from the Declaration and the Plat.
- O. "Member" shall mean and refer to each Owner of a Lot in the Common Interest Community. Membership shall be appurtenant to, and may not be separated from, ownership of a Lot.
- P. "Mortgagee" shall mean and refer to any Person who has a Security Interest in a Lot and who has provided written notice of such interest to the Association. The notice must include the Lot number and address of the Lot on which it has a Security Interest. Such notice shall be deemed to include a request that the Mortgagee be given the notices and other rights described in this Declaration.
- Q. "Owner" shall mean and refer to the Declarant or other Person who owns a Lot but does not include a Person having an interest in a Lot solely as security for an obligation. The Declarant is the owner of any Lot created in the Declaration until that Lot is first conveyed to another Person.
- R. "Person" shall mean and refer to a natural person, a corporation, a partnership, an association, a trust or any other entity or combination thereof.
- S. "Plat" shall mean and refer to the Plat of the Real Estate and all supplements and amendments thereto recorded in the Office of the Clerk and Recorder of Weld County, Colorado.
- T. "Purchaser" shall mean and refer to a Person, other than the Declarant, who, by means of a transfer, acquires a legal or equitable interest in a Lot, other than:
  - (1) A leasehold interest in a Lot of less than forty (40) years, including renewal options, with the period of the leasehold interest, including renewal options, being measured from the date the initial term commences; or
  - (2) A security interest.
- U. "Real Estate" shall mean and refer to the real property described on Exhibit "A" attached hereto and incorporated herein by reference, including structures, fixtures and other improvements and interests that, by custom, usage or law, pass with a conveyance of land, though not described in the contract of sale or instrument of conveyance.
- V. "Rules and Regulations" shall mean and refer to any instruments, however denominated, which are adopted by the Association for the regulation and management of the Common Interest Community, including any amendment to those instruments.
- W. "Security Interest" shall mean and refer to an interest in real estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sale contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract



intended as security for an obligation. "First Security Interest" shall mean and refer to a Security Interest in a Lot prior to all other Security Interests except the Security Interest for real property taxes and assessments made by Weld County, Colorado, or other governmental authority having jurisdiction over the Common Interest Community.

Section 2: Other terms in this Declaration may be defined in specific provisions contained herein and shall have the meaning assigned by such definition.

### ARTICLE III. COMMON INTEREST COMMUNITY

Section 1: Name. The name of the Common Interest Community is Paradise Village at St. Michaels.

Section 2: Association. The name of the Association is Paradise Village at St. Michael's Owners Association Inc.

Section 3: County. The name of every county in which any part of the Common Interest Community is situated is Weld County, Colorado.

Section 4: Legal Description. A legal description of the Real Estate included in the Common Interest Community is set forth on Exhibit "A" attached hereto and incorporated herein by reference.

Section 5: Maximum Number of Lots. The maximum number of Lots the Declarant reserves the right to create within the Common Interest Community is 54.

Section 6: Boundaries of Lots. The boundaries and identifying number of each Lot created by the Declaration are set forth on the Plat.

Section 7: Membership. Every Owner of a Lot which is subject to Common Expense Assessments shall be a Member of the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessments by the Association. Ownership of such Lot shall be the sole qualification for membership. When more than one (1) Person holds a membership interest in any Lot, all such Persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Section 8: Voting Rights and Assignment of Votes. The effective date for assigning votes to Lots created pursuant to this Declaration shall be the date on which this Declaration is recorded in the records of the Clerk and Recorder of Weld County, Colorado.

Section 9: Allocated Interests. The Common Expense Liability and votes in the Association shall be allocated to each lot as follows:

- A. For each Lot, the Owner's share of the Common Expenses shall be equal to a fraction, the numerator of which shall be one (1) and the denominator of which shall be the total number of Lots within the Common Interest Community.
- B. Each Owner shall be entitled to one (1) vote for each Lot owned.

Section 10: Recording Data: All easements and licenses to which the Common Interest Community is presently subject are described on the Plat of St. Michael's Town Center, recorded in the Weld County Records, Reception Number 3248942, recorded January 3, 2005. In addition, the Common Interest Community may be subject to other easements or licenses granted by the Declarant pursuant to the terms of this Declaration.

Section 11: Notice. Notice of matters affecting the Common Interest Community may be given to Owners by the Association or by other Owners in the following manner: notice shall be hand delivered or sent prepaid by United States mail to the mailing address of each Lot or to any other mailing address designated in writing by the Owner. Such notice shall be deemed given when hand delivered or when deposited in the United States mail.

### ARTICLE IV. ASSOCIATION

Section 1: Authority and Power. The business and affairs of the Common Interest Community shall be managed by the Association. The administration of the Common Interest Community shall be governed by this Declaration, the Articles of Incorporation, the Bylaws and published Rules and Regulations of the Association. The Association shall have all of the powers, authority and duties permitted pursuant to the Documents which are necessary and proper to manage the business and affairs of the Common Interest Community.

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Section 2: Declarant Control. The Declarant, or persons designated by it, may appoint and remove the officers and members of the Executive Board of the Association for a period of sixty (60) months after this Declaration is recorded in the office of the Clerk and Recorder of Weld County, Colorado. Executive Board members must be Owners during the period of Declarant control. Notwithstanding the sixty (60) months referenced herein, the period of Declarant control shall terminate not later than either sixty days after conveyance of 75% of the Lots that may be created to Owners other than the Declarant, two years after the last conveyance of a Lot by the Declarant in the ordinary course of business, or two years after any right to add new Lots was last exercised. Not later than sixty days after conveyance of 25% of the Lots that may be created to Owners other than the Declarant, at least one member and not less than 25% of the members of the Executive Board must be elected by Owners other than the Declarant. Not later than sixty days after conveyance of 50% of the Lots that may be created to Owners other than the Declarant, not less than 33-1/3% of the members of the Execution Board must be elected by Owners other than the Declarant.

Section 3: Executive Board, Powers and Duties. The Executive Board may act in all instances on behalf of the Association, except as provided in this Declaration or the Bylaws. The Executive Board shall have, subject to the limitations contained in this Declaration, the powers and duties necessary for the administration of the affairs of the Association, which shall include, but not be limited to, the following:

- A. Adopt and amend Bylaws.
- B. Adopt and amend Rules and Regulations.
- C. Adopt and amend budgets for revenues, expenditures and reserves.
- D. Collect assessments from Owners.
- E. Suspend the voting interests allocated to a Lot, and the right of an Owner to cast such votes, or by proxy the votes of another, during any period in which such Owner is in default in the payment of any Association, or, after notice and a hearing, during any time in which an Owner is in violation of any other provision of the Documents. The suspension of voting rights allowed herein for a violation of the Association's Rules and Regulations shall not exceed sixty (60) days for any one occurrence.
- 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 administration proceedings or seek injunctive relief for violation of the Documents in the Association's name, on behalf of the Association, or two (2) or more Owners on any 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. Cause additional improvements to be made as a part of the Common Elements.
- L. Acquire, hold, encumber and convey in the Association's name, any right, title or interest to real estate or personal property, but the Common Elements may be conveyed or subjected to a Security Interest only pursuant to this Declaration and applicable law.
- M. Grant easements for any period of time, including permanent easements, leases, licenses and concessions through or over the Common Elements.
- N. Impose and receive a fee or charge for the use, rental or operations of the Common Elements and for services provided to Owners.
- O. Impose a reasonable charge for late payment of assessments and levy a fine for violation of this Declaration, the Bylaws and the Rules and Regulations of the Association.
- P. Impose a reasonable charge for the preparation and recordation of supplements or amendments to this Declaration and for statements of unpaid assessments.
- Q. Provide for the indemnification of the Association's officers and the Executive Board and maintain Directors' and Officers' liability insurance.

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- R. Declare the office of a member of the Executive Board to be vacant in the event such member shall fail to participate in three (3) regular meetings of the Executive Board during any one year period.
- S. Enforce the Design Guidelines and Architectural Standards established for St. Michael's.
- T. Assign the Association's right to future income, including the right to receive Common Expense Assessments, only upon the affirmative vote of the Owners of Lots to which at least 67% of the votes in the Association are allocated, at a meeting called for that purpose.
- U. Exercise any other powers conferred by the Documents.
- V. Exercise any other power that may be exercised in the State of Colorado by a legal entity of the same type as the Association.
- W. Exercise any other power necessary and proper for the governance and operation of the Association.
- X. By resolution, establish permanent and standing committees of Directors to perform any of the above functions under specifically delegated administrative standards as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Owners and the Executive Board. However, actions taken by a committee may be appealed to the Executive Board by any Owner within forty-five (45) days of publication of a notice. If an appeal is made, the committee's action must be ratified, modified or rejected by the Executive Board at its next regular meeting.

Section 4: Professional Management and Contract Termination Provisions. The Association may utilize professional management in performing its duties hereunder. Any agreement for professional management of the Association's business shall have a maximum term of three (3) years and shall provide for termination by either party thereto, with or without cause, and without payment of a termination fee, upon fourteen (14) days' prior written notice. Any contracts, licenses or leases entered into by the Association while there is Declarant control of the Association shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, at any time after termination of Declarant control of the Association, upon sixty (60) days' prior written notice; provided, however, that any contract entered into at any time by the Association providing for services of the Declarant shall provide for termination at any time by either party thereto without cause and without payment of a termination fee upon sixty (60) days' prior written notice. In addition, any management agreements entered into by the Association with a manager or managing agent prior to the termination of the period of Declarant control shall be subject to review and approval by HUD or VA, if, at the time such agreement is entered into, HUD has insurance or VA has a guarantee(s) on one (1) or more First Security Interests.

Section 5: Executive Board Limitations. 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 their qualifications, powers and duties or the terms of office of Executive Board members, but the Executive Board may fill vacancies in its membership for the unexpired portion of any term pursuant to the Bylaws.

**ARTICLE V. COMMON ELEMENTS AND LIMITED COMMON ELEMENTS**

Section 1: Dedication of the Common Elements. The Declarant hereby dedicates the Common Elements to the common use and enjoyment of the Members, as hereinafter provided.

Section 2: Description of Common Elements. The Common Elements within the Common Interest Community shall consist of (i) open space areas identified on Exhibit "C" attached hereto and by this reference incorporated herein; (ii) all landscaping and irrigation systems located within the Common Area, and (iii) all other common facilities and improvements installed in, on or under the Common Elements.

Section 3: Installation of Common Elements. The open space areas identified on Exhibit "C" shall be transferred to the Association free and clear of all liens and encumbrances.

Section 4: Owners' Easements of Enjoyment. Each Owner shall have a right and easement of enjoyment in and to the Common Elements and such easement shall be appurtenant to and shall pass with title to every Lot, subject to the following provisions:

- A. The right of the Association to promulgate and publish reasonable Rules and Regulations as provided in this Declaration.


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B. The right of the Association to suspend voting rights and the right to use Common Elements by an Owner for any period during which any Assessment against his or her Lot remains unpaid; and for a period not to exceed sixty (60) days from any infraction of its published Rules and Regulations.

C. The right of the Association to close or limit use of the Common Elements while maintaining, repairing and making replacements in the Common Elements.

Section 5: Delegation of Use. An Owner may delegate, in accordance with the Bylaws, his or her right of enjoyment to Common Elements and facilities to the members of his or her family, tenants or contract Purchasers who reside in his or her Lot.

Section 6: Allocation of Specified Common Elements. The Executive Board may designate part of the Common Elements from time to time for use by less than all of the Owners or by nonowners for specified period of time or by only those persons paying fees or satisfying other reasonable conditions for use as may be established by the Executive Board. Any such designation by the Executive Board shall not be a sale or disposition of such portion of the Common Elements.

Section 7: Description of Lot. After the Declaration and Plat have been filed for record in Weld County, Colorado, every contract for sale of a Lot may describe that Lot by the designation shown on the Plat with the appropriate reference to the Plat and to this Declaration, as each shall appear on the records of the Clerk and Recorder of Weld County, Colorado, in the following fashion:

Lot \_\_\_\_, Block \_\_\_\_, St. Michael's Town Center, a replat of Lots 1, 2 and 3, Block 25, Lots 1 and 2, Block 47, St. Michael's Subdivision and Tract 4, St. Michael's Subdivision – 1<sup>st</sup> Replat, a portion of the West ½ of Section 21, T5N, R66W of the 6<sup>th</sup> P.M., City of Greeley, County of Weld, State of Colorado.

Such description will be construed to describe the Lot and to incorporate all of the rights incident to ownership of the Lot and all of the limitations on such ownership as described in this Declaration. In the event of an amendment of the Declaration and/or Plat, such amendment shall be reflected by the additional recording information, including date of recording and reception number. The foregoing method of describing a Lot shall not be deemed the exclusive means to legally describe a Lot.

#### **ARTICLE VI. SPECIAL DECLARANT RIGHTS AND ADDITIONAL RESERVED RIGHTS**

Section 1: Special Declarant Rights. Declarant hereby reserves the right for a period of sixty (60) months after this Declaration is recorded in the office of the Clerk and Recorder of Weld County, Colorado, to perform the acts and exercise the rights hereinafter specified ("Special Declarant Rights"). Declarant's Special Declarant Rights include the following:

- A. Completion of Improvements. The right to complete or make improvements indicated on the Plat, whether or not it shall yet have been recorded.
- B. Sales Management and Marketing. The right to use the Common Elements to the exclusion of the Owners as sales and management offices. The right to maintain other sales offices, management offices, and signs advertising the Common Interest Community.
- C. Construction Easement. The right to use the Common Elements for the purpose of making improvements and to provide access within the Common Interest Community or within the Real Estate. The right to construct and complete the construction of Lots, utilities, entrance signage, landscaping, buildings, streets, roads, driveways, parking lots, drainage and all other improvements on the Real Estate and to repair and maintain the Common Elements.
- D. Merger. The right to merge or consolidate a Common Interest Community with another Common Interest Community of the same form of ownership.
- E. Control of Association Executive Board. The right to appoint or remove any officer of the Association or any Executive Board member.

Section 2: Additional Reserved Rights. In addition to the Special Declarant Rights set forth in Section 1 above, Declarant also reserves the following additional rights ("Additional Reserved Rights"):

- A. Dedications. The right to establish, from time to time, by dedication or otherwise, utility and other easements over, across, and upon the Common Elements for purposes including, but not limited to, streets, paths, walkways, drainage, and parking areas, and to create other reservations,

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exceptions, and exclusions over, across and upon the Common Elements for the benefit of and to serve the Owners within the Common Interest Community.

- B. Use Agreements. The right to enter into, establish, execute, amend and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of Common Elements, which may or may not be a part of the Common Interest Community for the benefit of the Owners and/or the Association.
- C. Colorado Common Interest Ownership Act. The right to amend this Declaration to comply with the requirements of the Colorado Common Interest Ownership Act (the "Act") as they relate to planned communities in the event any provision contained herein does not so comply with the Act.
- D. FHAVA Requirements. The right to amend this Declaration in connection with the exercise of any Special Declarant Rights, Additional Reserved Rights or Development Rights or in connection with the qualification or continued qualification for FHA or VA loan guarantees, and for compliance with FNMA, GNMA, FHLMC requirements or other available financing programs.
- E. Other Rights. The right to exercise any Additional Reserved Right created by any other provision of this Declaration.

Section 3: Rights Transferable. Any Special Declarant Right or Additional Reserved Right created or reserved under this Article for the benefit of the Declarant may be transferred to any Person by an instrument describing the rights transferred and recorded in Weld County, Colorado. Such instrument shall be executed by the transferor Declarant and the transferee.

#### ARTICLE VII. RESERVATION OF DEVELOPMENT RIGHTS

Section 1: Construction Easement. The Declarant expressly reserves the right to perform construction work, store materials on the Real Estate, and the future right to control such work and the right of access thereto until its completion. All work may be performed by the Declarant without the Consent or Approval of any Owner or Mortgagee. Such work may be performed by the Declarant on Lots owned by Purchasers, if necessary. The Declarant shall have such easements through the Real Estate as may be reasonably necessary for the purpose of discharging the Declarant's obligations and exercising the Declarant reserved rights in this Declaration. Such easements shall include the right to construct underground utility lines, pipes, wires, ducts, conduits and other facilities. Declarant may grant easements to public utility companies and to convey improvements within those easements. If the Declarant grants any such easements, the Plat will be amended, if necessary, to include reference to the recorded easement.

Section 2: Termination of Development Rights. The Development Rights reserved to the Declarant, for itself, its successors and assigns, shall expire sixty (60) months from the date of the recording of this Declaration, unless the Development Rights are (i) extended as allowed by law, or (ii) reinstated or extended by the Association, subject to whatever conditions and limitations the Executive Board may impose upon the subsequent exercise of the Development Rights by the Declarant.

Section 3: Transfer of Development Rights. Any Development Right created or reserved under this Article for the benefit of the Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in Weld County, Colorado. Such instrument shall be executed by the transferor Declarant and the transferee.

#### ARTICLE VIII. COVENANT FOR ASSESSMENTS

Section 1: Creating of Lien and Personal Obligation for Assessments. Each Owner, including the Declarant, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees and shall be personally obligated to pay to the Association: annual assessments or charges, special assessments and other charges, fines, fees, interest, late charges and other amounts, all as provided in this Declaration; with such assessments and other amounts to be established and collected as hereinafter provided. The annual and special assessments and other charges, fees and fines, together with interest, late charges, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The obligation for such payments by each Owner to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand (except as otherwise expressly provided in this Declaration), and without setoff or deduction. All Owners of each Lot shall be jointly and severally liable to the Association for the payment of all assessments, fees, charges and other amounts attributable to their Lot. Each assessment, charge, fee and all other amounts under this Declaration, together with interest, later charges, costs and reasonably attorneys' fees, shall also be the personal obligation of the person or persons who was the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed



by them. The Association's lien on a Lot for assessments and other amounts shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said lien.

Section 2: Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Lots, and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to pursue pursuant to this Declaration or the Articles of Incorporation or Bylaws of the Association, or by law; provided, however, that such assessments levied during the period of Declarant control may not be used for the purpose of constructing capital improvements, but may be used to repair or reconstruct completed common improvements in the event of damage or destruction.

Section 3: Rate of Assessment. Annual and special assessments shall be fixed at a uniform rate for all Lots, sufficient to meet the expected needs of the Association. The annual assessments shall include an adequate reserve fund for the maintenance, repair and replacement of those items that must be maintained, repaired or replaced on a periodic basis, and for the payment of insurance deductibles. All assessments shall be assessed against all the Lots in accordance with the Allocated Interests set forth in this Declaration, except as specifically elsewhere provided in this Declaration.

Section 4: Date of Commencement of Annual Assessments. Until the Association makes an annual assessment, which shall commence at such time as the Executive Board may determine in its discretion, the Declarant shall pay all Common Expenses. Annual assessments shall be based on a budget adopted by the Association as provided herein. A budget shall be so adopted by the Association no less frequently than annually in accordance with the Bylaws. The annual assessments shall be due and payable in monthly installments, in advance, or on such other dates, and with such frequency (which may be other than monthly, but not less frequently than annually), as the Executive Board may determine in its discretion from time to time; provided that the first annual assessment shall be adjusted to reflect the time remaining in the first Association fiscal year. Any Owner purchasing a Lot between installment due dates shall pay a pro rata share of the last payment due.

Section 5: Meeting to Approve Annual Budget. At the annual meeting of the Association or at a special meeting of the Association called for such purpose, the Owners shall be afforded the opportunity to ratify a budget of the projected revenues, expenditures and reserves for the Association's next fiscal year as proposed by the Executive Board. A summary of the proposed budget approved by the Executive Board shall be mailed to the Owners within thirty (30) days after its adoption along with a notice of a meeting of the Association to be held not less than fourteen (14) nor more than fifty (50) days after mailing of the summary to the Owners (or, in the alternative, together with a ballot and information sufficient to satisfy the provisions of Section 109 of the Colorado Revised Nonprofit Corporation Act). Unless eighty percent (80%) of the total votes in the Association reject the proposed budget, the budget is ratified. There are no quorum requirements for this meeting. In the event the proposed budget is rejected, the budget last ratified by the Owners continues until such time as the Owners ratify a subsequent budget proposed by the Executive Board as provided above.

Section 6: Special Assessments. In addition to the annual assessments authorized in this Article, the Executive Board may levy, in any fiscal year, with the approval of the votes of two-thirds (2/3) of the Owners voting in person or by proxy at a meeting duly called for this purpose, a special assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements or any property for which the Association has repair and/or reconstruction obligations, including fixtures and personal property related thereto, or for repair or reconstruction of any damaged or destroyed improvement, or for the funding of any operating deficit incurred by the Association. Any such special assessment shall be set against each Lot in accordance with the Allocated Interests therefore. A meeting of the Owners called for the purpose of considering the establishment of a special assessment shall be held in conformance with Section 7 of this Article. Notwithstanding the foregoing, special assessments levied during the period of Declarant control may not be used for the purpose of constructing capital improvements, but may be used to repair or reconstruct completed common improvements in the event of damage or destruction.

Section 7: Notice and Quorum for Special Assessments. Written notice of any meeting called for the purpose of taking any action authorized under Section 6 of this Article shall be sent to all Owners not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the membership votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8: Charges for Services to Less Than All Lots. The Association may, at any time from time to time, provide services to less than all of the Lots, and the Owners of such Lots shall pay the Association for such services as hereinafter provided, which amounts shall be in addition to the annual and special assessments. Any

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such services shall be provided, if at all, pursuant to an agreement in writing between the Association and the Owners of the Lots for which such service(s) are to be provided, with such agreement to include a statement of the costs, fees and expenses reasonably expected to initially be incurred by the Association in providing such service(s), including overhead expenses of the Association. Services which may be provided by the Association pursuant to this section include, without limitation, (a) the construction, care, operation, management, maintenance, upkeep, repair, replacement and renovation of improvements or property owned by such Owner(s); (b) the provision of any services or function to or for such Lot(s); (c) the enforcement of the provisions of any document or agreement for, on behalf of, and in the name of the applicable Owner(s); (d) the payment of taxes or other amounts for Owner(s) with funds provided by such Owner(s); and (e) the procurement of insurance for Owner(s). The Association may, at its election, at any time from time to time, collect the aforesaid costs, fees, expenses and other charges from owners to whom such services are provided, in advance or arrears, in monthly or other installments, or in addition to and on the same date for payment of, the assessments. The Declarant shall not be liable for any assessment due to Declarant's use of the Common Elements during the period of Declarant Control.

Section 9: Lien for Assessments.

A. The Association has a statutory lien on a Lot for any assessment levied against that Lot or for fines imposed against its Owner. Fees, charges, late charges, attorneys' fees, fines and interest charged pursuant to this Declaration are enforceable as assessments under this Article. The amount of the lien shall include all those items set forth in this section from the time such items become due. If an assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations.

B. Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessments is required. However, the Executive Board or managing agent of the Association may prepare, and record with the Clerk and Recorder of Weld County, Colorado, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot and a description of the Lot. If a lien is filed, the costs and expenses thereof shall be added to the assessment for the Lot against which it is filed and collected as part and parcel thereof. The Association's lien may be foreclosed in like manner as a mortgage on real estate.

C. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within six (6) years after the full amount of each unpaid assessment becomes due.

D. Unless the Declaration otherwise provides, if two (2) or more associations have liens for assessments created at any time on the same Property, those liens have equal priority.

Section 10: Priority of Association Lien.

A. A lien under this Article VIII is prior to all other liens and encumbrances on a Lot except:

- (1) Liens and encumbrances recorded before the recordation of the Declaration;
- (2) A First Security Interest on the Lot, which was recorded or perfected before the date on which the assessment sought to be enforced became delinquent; and
- (3) Liens for real estate taxes and other governmental assessments or charges against the Lot.

B. A lien under this section is also prior to the First Security Interests described in the preceding subsection 10.A(2) to the extent of an amount equal to the annual assessment based on a periodic budget adopted by the Association as provided above which would have become due, in the absence of any acceleration, during a six (6) months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien created under this section of an action or a nonjudicial foreclosure either to enforce or to extinguish the lien.

C. This section does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the Association. A lien under this Article is not subject to the provisions of Part 2 of Article 41 of Title 38, CRS, as amended, or to the provisions of CRS §15-11-201, as amended.

Section 11: Receiver. In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the Owner to collect all sums alleged to be due from the Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's assessments.

Section 12: Certificate of Status of Assessments. The Association shall furnish to an Owner or such Owner's designee or to an Eligible Mortgagee or its designee, upon written request delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the Association's registered agent, a written

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statement setting forth the amount of unpaid assessments currently levied against such Owner's Lot. The statement shall be furnished within fourteen (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 Eligible Mortgagee or their designee, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party, then 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. The Association shall have the right to charge a reasonable fee for the issuance of such certificates.

Section 13: Effect of Non-Payment of Assessments; Remedies of Association. Any assessment not paid within ten (10) days after the due date thereof may bear interest at the rate of twenty-one percent (21%) per annum, or at such lesser rate as may be set from time to time by the Executive Board, and the Executive Board may in addition assess thereon a late charge not in excess of Twenty-Five Dollars (\$25.00) per month. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot. If a judgment or decree is obtained, including, without limitation, in a foreclosure action, such judgment or decree shall include a reasonable attorneys' fee to be fixed by the court, together with the costs of the action, and may include interest and late charges as above provided. No Owner may be exempt from liability for payment of the assessments by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Lot against which the assessments are made.

Section 14: Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves shall be retained by the Association as reserves and need not be paid to the Owners in proportion to their Common Expense Liability or credited to them to reduce their future assessments.

Section 15: Working Capital Fund. The Association or the Declarant shall require the first Owner of any Lot who purchases that Lot from the Declarant to make a non-refundable contribution to the Association in an amount equal to two (2) times the monthly installment of the annual assessment at the time of closing (regardless of whether or not assessments have commenced as provided in Section 4 of this Article). Said contribution shall be collected and transferred to the Association at the time of closing of the sale by the Declarant of each Lot and shall, until use, be maintained in a segregated account with other such working capital funds for the use and benefit of the Association, including, without limitation, to meet unforeseen expenditures or to purchase additional equipment, property or services; provided, however, that the working capital fund shall not be used to defray any of the assessments, or any of the reserve contributions, which are payable by the Declarant to the Association, or to pay for construction costs, or to make up any budget deficits, during the period of Declarant control. Such contribution to the working capital fund shall not relieve an Owner from making regular payments of assessments as the same become due. Upon the transfer of his Lot, an Owner shall be entitled to a credit for his transferee (but not from the Association) for the aforesaid contribution to working capital fund.

Section 16: Assessments for Misconduct. If any Common Expense is caused by the misconduct of any Owner, the Association may assess that Common Expense exclusively against such Owner and his Lot.

#### ARTICLE IX. EASEMENTS

Section 1: Recorded Easements. In addition to all easements and rights-of-way of record at or before the recording of this Declaration, the Real Estate, and all portions thereof, shall be subject to the easements as shown on any recorded Plat of the Real Estate, or any portion thereof. Further, the Real Estate, or portions thereof, is now or may hereafter be subject to the easements, licenses and other recorded documents, or any of them, set forth on the Plat of St. Michael's Town Center, recorded in the Weld County Records, Reception Number 3248942, recorded January 3, 2005.

Section 2: Emergency Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and all other similar emergency agencies or persons to enter upon all streets and upon the Common Elements in the proper performance of their duties.

Section 3: Access and Utility Easements. There is hereby created a blanket easement upon, across, over and under the Common Elements for ingress and egress to and from each Lot and for utilities and the installation, replacement, repair and maintenance of utilities, including, but not limited to, water, sewer, gas, telephone, electricity and master television antenna or cable systems, if any. By virtue of this blanket easement, it shall be expressly permissible to erect and maintain the necessary facilities, equipment and appurtenances on the Common Elements and to affix, repair and maintain water and sewer pipes, water and sewage pumps, gas, electric, telephone and television wires, cables, circuits, conduits and meters. In the event any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, the Association shall have the right and authority to grant such easements upon, across, over or under any part or all of the Common Elements without conflicting with the terms hereof. The easement provided for in this Section 3 shall in no way affect, avoid, extinguish or modify any other recorded easements on the Common Elements.

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Section 4: Maintenance Easement. The Association shall have a non-exclusive perpetual right and easement over, across and upon all Lots and Common Elements for the purpose of performing the maintenance and repair, if any, of the Lots as required of the Association under the terms of this Declaration.

Section 5: Drainage Easement. An easement is hereby granted to the Association, its officers, agents, employees, successors and assigns to enter upon, across, over, in and under any portion of the Common Elements for the purpose of changing, correcting or otherwise modifying the grade or drainage channels of the Real Estate so as to improve the drainage of water on the Real Estate. Every Lot and the Common Elements shall be burdened with easements for natural drainage of storm water runoff from the other portions of the Real Estate; provided, however, no person shall alter the natural drainage on any Lot so as to materially increase the drainage of water onto adjacent portions of the Real Estate within the consent of the Owner of the affected property.

Section 6: Easement for Association. Each Lot shall be subject to an easement in favor of the Association (including its Executive Board, agents, employees and contractors) to perform the obligations of the Association pursuant to this Declaration.

Section 7: Easements Deemed Appurtenant. The easements and rights created herein for an Owner shall be deemed appurtenant to the Lot owned by such Owner. All conveyances and instruments affecting title to a Lot shall be deemed to grant and reserve the easements and rights of way as provided herein, as though set forth in said document in full, even though no specific reference to such easements or rights of way appear.

#### ARTICLE X. RESTRICTIVE COVENANTS AND OBLIGATIONS

Section 1: Residential Use. Subject to the Special Declarant Rights as provided in this Declaration, Lots shall be used for residential purposes only, including uses related to the convenience and enjoyment of such residential use.

Section 2: Temporary Structures. No temporary building or other temporary structures, trailers, tents, shacks, barns or outbuildings shall be erected, used or permitted to be kept or stored on any portion of the Real Estate for any period of time, except as specifically allowed in this Declaration or except as utilized by the Declarant or the assigns or lessees of Declarant.

Section 3: Construction Facilities. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant, its agents, employees and contractors to maintain during the period of construction and sale of any Lots, upon such portion of the Real Estate as Declarant may choose, such facilities as in its sole opinion may be reasonably required, convenient or incidental to the construction and sale or rental of Lots, including, without limitation, a business office, storage area, construction yard, signs, model Lots and residences, sales office, construction office, parking areas, and lighting.

Section 4: General Restrictions. None of the Real Estate shall be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Lot or any resident thereof and no billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Real Estate.

Section 5: Household Pets. No animals, livestock, poultry or insects, of any kind, shall be raised, bred, kept or boarded within the Common Interest Community provided, however, that a reasonable number of dogs, cats or other household pets may be kept in any Lot, so long as they are not kept for any commercial purpose and are not kept in such number or in such manner as to create a nuisance to other Owners. The Association shall have, and is hereby given, the right and authority to determine in its sole discretion whether dogs, cats or other household pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance to other Owners, or that an Owner is otherwise in violation of this Section 5, and to take such action or actions as it deems reasonably necessary to correct the same. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such Owner's pet(s), as well as any costs incurred by the Association as a result of such pets. Dogs and other household pets shall not be allowed to run at large within the Common Interest Community.

Section 6: Use of Common Elements. Subject to the Special Declarant Rights as provided in this Declaration, there shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements without the prior written Approval of the Executive Board of the Association. Except for those improvements erected or installed by Declarant in his construction and completion of the Common Interest Community, nothing shall be altered on, constructed in or removed from the Common Elements without the prior written Approval of the Executive Board of the Association.

Section 7: Signs and Advertising. Except as hereinafter provided, no signs, advertising, billboards, unsightly objects or nuisances of any kind shall be placed, erected or permitted to remain in or on any Lot, nor shall any sign(s) be permitted in or on the Common Elements, without the prior written Approval of the Executive Board of the Association and the design review committee of the Association. Notwithstanding the foregoing, reasonable



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signs, advertising or billboards used by the Declarant in connection with his sale or rental of Lots, or otherwise in connection with his development of the Common Interest Community, shall be permissible, provided that such use by the Declarant shall not interfere with the Owners' use and enjoyment of the Common Elements, their Lots, or their ingress and egress from a public way to the Common Elements or their Lots.

Section 8: Storage and Trash. All clotheslines, garbage cans, trash receptacles or similar stored items shall be kept screened by adequate vegetation or fencing so as to conceal them from view of neighboring Lots and streets. All rubbish, trash or garbage shall be kept in a container, shall be regularly removed from the premises and shall not be allowed to accumulate thereon.

Section 9: Parking. Subject to the Special Declarant Rights as provided in this Declaration, there shall be no parking, storing, servicing or repairing commercial vehicles, recreational vehicles, mobile homes, boats, campers, trailers, watercraft or other oversized vehicles, stored vehicles or inoperable vehicles in places other than enclosed attached garages. The Executive Board may promulgate reasonable rules and regulations regarding parking restrictions applicable to any portion of the Real Estate, including private driveways and adjoining public streets. Each Owner shall be responsible for any damage or staining to concrete created by oil or other substances dripping from vehicles.

Section 10: Abandoned or Inoperable Vehicles. No abandoned or inoperable automobiles or vehicles of any kind, except as hereinafter provided, shall be stored or parked on any portion of the Common Interest Community. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, boat, trailer, camper, house trailer, self-contained motorized recreational vehicle, or other similar vehicle, which has not been driven under its own propulsion for a period of one (1) week or longer, or any vehicle which does not have an operable propulsion system installed therein; provided, however, that the foregoing restrictions shall not include otherwise permitted vehicles parked by Owners while on vacation or during a period of illness, or vehicle(s) parked within an enclosed garage. In the event the Association shall determine that a vehicle is an abandoned or inoperable vehicle, then a written notice describing said vehicle shall be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the abandoned or inoperable vehicle is not removed within seventy-two (72) hours thereafter, the Association shall have the right to remove the vehicle at the sole expense of the owner thereof.

Section 11: Sound, Light, etc. There shall be no activities which materially disturb or destroy the vegetation, wildlife or air quality within the Common Interest Community or which use excessive amounts of water or which result in unreasonable levels of sound, water or light pollution. Exterior illumination of houses, yards, garages, driveways and streets shall be limited to that reasonably necessary for security and safety. Lighting shall be oriented so as not to shine on any other Lot.

Section 12: Subdivision. There shall be no subdivision of a Lot into two or more Lots after a subdivision plat including such Lot has been approved and filed with the appropriate governmental authority, or changing the boundary lines of any Lot, except that the Declarant shall be permitted to subdivide or change boundary lines of Lots which it owns.

Section 13: Leases. An Owner may lease his Lot in compliance with all of the provisions of the articles of incorporation, bylaws, rules and regulations, and covenants (the "Governing Documents") of the Association. Any Owner who leases his Lot shall be required to provide copies of the Governing Documents to all tenants of the Lot. Leases of Lots must be in writing and for a term of not less than six (6) months. Leases shall be subject in all respects to the provisions of the Governing Documents and must specifically provide that any failure by any related user to comply with the terms of such documents shall be a default under the lease. Failure of an Owner to comply with the terms of this Section and with applicable Rules and Regulations may, at the discretion of the Executive Board, result in that person's forfeiture of the right to lease the Lot.

Section 14: Nuisances. No nuisance shall be allowed within the Common Interest Community, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful enjoyment or possession and proper use of the Common Interest Community by its residents. As used herein, the term "nuisance" shall not include any activities of Declarant in regard to the development and construction of the Common Interest Community. All parts of the Common Interest Community shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate, nor any fire hazard to exist. Further, no immoral, improper, offensive or unlawful use shall be permitted or made of the Common Interest Community or any part thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Common Interest Community, or any portion thereof, shall be observed.

Section 15: No Hazardous Activities. Nothing shall be done or kept or which endangers the common welfare or which is deemed a hazardous material under any law, ordinance or rule of any jurisdiction or regulatory body in any Lot or in or on the Common Elements, or any part thereof, which would result in the cancellation of insurance on any Lot, or any part thereof, or an increase on the rate of insurance on any Lot, or any part thereof, over what the Association, but for such activity, would pay, without the prior written Approval of the Association. In the



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event the Association, in its sole and absolute discretion, elects to consent to any such activity resulting in an increase of the rate of insurance on any other Lots, the Association may require that the responsible Owner agree in writing to the prompt payment of such increase in the insurance premium.

Section 16: No Violation of Laws. Nothing shall be done or kept in any Lot or in or on the Common Elements, or any part thereof, which would be in violation of any protective covenants, restrictions or limitations affecting any Lot or in violation of any statute, rule, ordinance, regulation, zoning resolution, permit or otherwise imposed requirement of any governmental authority.

Section 17: Home Business Activities. No business or commercial enterprise whatsoever shall be allowed to operate within the Common Interest Community, except that Owners may conduct business activities within their Lots provided all of the following conditions are satisfied:

- A. The business conducted is clearly secondary to the residential use of the Lot and is conducted entirely within the Improvements on the Lot;
- B. The existence or operation of the business is not detachable from outside of the Improvements on the Lot by sight, sound, smell or otherwise, or by the existence of signs indicating that a business is being conducted;
- C. The business is conducted exclusively by the Owner or members of the Owner's family;
- D. The business does not result in an undue volume of traffic or parking within the Common Interest Community, which determination shall be made by the Executive Board in its sole discretion;
- E. The business conforms to all zoning requirements and is lawful in nature; and
- F. The business conforms to any reasonable rules and regulations that may be imposed by the Executive Board from time to time on a uniform basis to protect the peace, tranquility and quality of the Common Interest Community.

Section 18: Damage to Common Elements. No damage to or waste of the Common Elements, or any part thereof, shall be committed by an Owner or by any guest, invitee or contract Purchaser of an Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from such damage or waste caused by him, or his guests, invitees or contract Purchasers.

Section 19: Rules and Regulations. The Association, through the Executive Board, may adopt reasonable Rules and Regulations not inconsistent with this Declaration governing the use of the Common Elements.

Section 20: Exemption for Declarant. Provisions of this Declaration regarding development rights, special declarant rights and additional reserved rights shall supersede the provisions in this Article X. The Declarant and transferee declarants shall be exempt from provisions of this Article X which impede or preclude the exercise of any development right, special declarant right, or additional reserved rights reserved to the Declarant and transferee declarants pursuant to this Declaration.

## **ARTICLE XI. ARCHITECTURAL REVIEW**

Section 1: Architectural Review & Approval; Architectural Committee. No Improvements shall be constructed, replaced, altered, painted or otherwise located upon any portion of any Lot without first obtaining the written approval of the Board as provided herein. The Board may delegate this responsibility and authority to a committee made up of not less than three (3) individuals appointed by, and serving at the sole discretion of, the Board ("Architectural Committee"). Such individuals may, but need not be, Owners/Members, and may include Declarant and any agent, employee or other representative of Declarant. If an Architectural Committee is appointed, a majority of such committee shall constitute a quorum of the committee, and a majority of committee members present at any meeting whereat a quorum is present shall be required for committee action. Notice of all Architectural Committee meetings shall be furnished to each member of the committee; however, failure to furnish such notice shall not effect the validity of any otherwise valid action taken at a meeting.

Section 2: Pre-approved Plans. The Association has pre-approved certain sets of house plans ("Pre-Approved Plans") and color schemes for the Common Interest Community which are on file at the Association's office. Initial construction of residences within the Common Interest Community must comply with the Pre-Approved Plans and color schemes.

Section 3: Approval of Plans and Specifications; Standard for Review. To assure that the Property is developed and maintained so as to maximize its value and esthetic quality, the Architectural Committee is vested with the broadest authority available under law in reviewing and approving or rejecting all Improvements; however, no

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Improvements may be made or altered, whether or not approved by the Architectural Committee, which violate any restriction contained in this Declaration. Any approval or rejection of any Improvements shall not be deemed a waiver or estoppel with respect to the Architectural Committee's subsequent approval or rejection of any similar Improvements. Each request for approval of Improvements shall be evaluated individually on a case-by-case basis and no prior or subsequent action by the Architectural Committee shall limit its broad discretion and authority in approving or rejecting each request. The Architectural Committee may waive, modify or increase requirements on a case-by-case basis.

Section 4: Association Guidelines. The Executive Board may, from time to time, issue, amend or revoke guidelines or rules relating to Improvements and the procedures, materials to be submitted and additional factors which will be taken into consideration in connection with the approval of any proposed Improvements. Such guidelines or rules 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. Such guidelines or rules may waive requirement for approval of certain Improvements or exempt certain Improvements from the requirement of approval.

Section 5: Architectural Review Fee. The Executive Board may, in its guidelines or rules, provide for the payment of a fee to accompany each request for approval of any proposed Improvements.

X Section 6: Antennas. No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation, including, by example and not limitation, satellite dishes, shall be erected, used, or maintained outdoors on any Lot, whether attached to a building or structure or otherwise, unless approved by the Executive Board.

Section 7: Prosecution of Work After Approval. After approval of any proposed Improvements, the proposed Improvements shall be completed as promptly and diligently as possible and in complete conformity with the description of the proposed Improvements, any materials submitted to the Executive Board in connection with the proposed Improvements and any conditions imposed by the Executive Board. Upon completion of the Improvements, the Applicant shall give written notice of completion to the Executive Board. The Executive Board or duly authorized representative shall have the right to inspect any Improvements prior to or after completion; provided that the right of inspection shall terminate sixty (60) days after the Executive Board received a notice of completion from the Applicant. If, as a result of inspections or otherwise, the Executive Board finds that any Improvements have been done without obtaining the approval of the Executive Board or have not done in substantial compliance with the description and materials furnished to, and any conditions imposed by the Executive Board, the Executive Board shall give written notice to the Applicant specifying the particulars of noncompliance. The Applicant shall have forty-five (45) days from the date of such notice in which to remove or remedy the noncompliance, and if Applicant fails to do so, the Association may, at its option, record a notice of noncompliance against the property on which the noncompliance exists, may remove the noncomplying Improvements, or may otherwise remedy the noncompliance, and the Applicant shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Applicant or Owner to the Association, the Association may levy an assessment against the Owner of the Lot for reimbursement of such costs and expenses. The right of the Association to remedy or remove any noncompliance shall be in addition to all other rights and remedies which the Association may have at law, in equity, or under this Declaration.

Section 8: No Implied Waiver or Estoppel. No action or failure to act by the Executive Board shall constitute a waiver or estoppel with respect to future actions by the Executive Board of the Association. Specifically, approval by the Executive Board of any Improvements shall not be deemed a waiver of any right or estoppel to withhold consent for any similar Improvements or any similar proposals, plans, specifications or other materials submitted with respect to any other Improvements.

Section 9: Non-liability. No member of the Executive Board shall be liable to the Association or to any Owner or Member for any loss, damage, or injury arising out of or in connection with the performance of the duties of the Executive Board under this Declaration, unless such action constitutes willful misconduct or bad faith on the part of the Executive Board. Review and consideration of any application submitted to the Executive Board shall be pursuant to this Declaration, and any approval granted shall not be considered approval of the structural safety or integrity of the Improvements to be constructed or conformance of such Improvements with building codes, zoning resolutions, subdivision regulations, or other governmental rules and regulations applicable to the Common Interest Community.

Section 10: Variances. The Executive Board may authorize variances from compliance with any provisions of this Declaration when circumstances such as natural obstructions, hardships, aesthetics or environmental considerations may require. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the Executive Board. 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; provided, however, that the granting of the variance shall not operate to waive any provisions of this Declaration for any purpose except as to the particular property and the particular provision hereof covered by the variance, nor shall the granting of a variance affect in any way the Owner's obligations to comply with

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all governmental laws and regulations affecting the property concerned, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental authority having jurisdiction.

Section 11: Fences. Subject to the restrictions in this Section 14, fences on Lots within the Common Interest Community are optional. The construction and maintenance of a fence on a Lot shall be at the expense of the Lot Owner. No fence shall be constructed on a Lot until the plans and specifications thereof shall have been approved in writing by either the Executive Board or Architectural Review Committee.

## ARTICLE XII. INSURANCE

Section 1: Insurance Requirements Generally. To the extent reasonably available, the Association shall obtain and maintain insurance described in this Article. If such insurance is not reasonably available, and the Executive Board determines that any insurance described in this Article will not be provided by the Association, the Executive Board shall cause notice of that fact to be hand delivered or sent, postage prepaid, by United States mail to all Owners and all holders of Security Interests which are superior to the assessment lien of the Association at their respective last known addresses. All such insurance shall be underwritten, to the extent reasonably possible, with companies licensed to do business in Colorado having a Best's Insurance Report rating of A-/VI or better covering the risks described below. To the extent reasonably possible, such insurance shall contain the following provisions to the extent appropriate for such insurance:

- A. Waiver. A waiver by the insurer of any right to subrogation under the policy against an Owner, members of the household of an Owner, and the Association, its directors, officers, employees and agents.
- B. Act or Omission. An act or omission by an Owner will not void the policy or be a condition of recovery under the policy.
- C. Severability of Interest. A "severability of interest" clause shall be included providing that the insurance cannot be cancelled, invalidated or suspended on account of the negligent or intentional acts of the Association, its directors, officers, employees and agents.
- D. Other Insurance. If there is other insurance in the name of an Owner at the time of a loss which covers the same risk covered by the Association policy, the Association's policy shall provide primary insurance.
- E. Adjusted Losses. All losses must be adjusted with the Association as agent of the Owners.
- F. Proceeds from Casualty Insurance. Proceeds from the casualty policy on account of loss shall be paid to an insurance trustee if one is designated in the policy for that purpose and otherwise to the Association, but, in any case, proceeds shall be held in trust for the Owner and the First Mortgagee on his or her Lot.
- G. Cancellation. The insurer may not cancel or refuse to renew the policy until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, to each Owner and to each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses.
- H. Name of Insured. The policy shall be issued in the name of Paradise Village at St. Michael's Owners Association, Inc. for the use and benefit of the individual Owners.
- I. Maximum Deductible. The maximum deductible for casualty insurance shall be the lesser of Five Thousand Dollars (\$5,000) or one percent (1%) of the face amount of the policy.

Section 2: Casualty Insurance. The Association or its agents shall maintain at all times fire and casualty insurance with extended coverage or equivalent in an amount as near as possible to full replacement value of any insurable improvements constituting Common Elements within the Common Interest Community.

Section 3: Public Liability and Property Damage Insurance. The Association shall obtain and maintain comprehensive public liability insurance, including non-owned and hired automobile liability coverage, personal injury liability coverage, products coverage covering liabilities of the Association, its directors, officers, employees, agents and members arising in connection with the ownership, operation, maintenance, occupancy or use of the Common Elements, Limited Common Elements and any other area the Association is required to maintain, repair or replace pursuant to this Declaration with a minimum single limit or per occurrence limit of One Million Dollars (\$1,000,000).

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Section 4: Workmen's Compensation and Employer's Liability Insurance. The Association shall obtain and maintain workmen's compensation and employer's liability insurance as may be necessary to comply with applicable laws.

Section 5: Fidelity Bonds. A blanket fidelity bond or dishonesty insurance coverage is required for anyone who either handles or is responsible for funds held or administered by the Association, whether or not he or she receives compensation for his or her services. The bond or insurance shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association or the Manager at any time while the bond or insurance is in force. In no event shall the bond or coverage be for an amount less than the sum of three (3) months' Assessments plus reserve funds.

Section 6: Directors' and Officers' Liability Insurance. The Executive Board shall obtain and maintain directors' and officers' liability insurance, if available, covering all of the directors and officers of the Association. This insurance will have limits determined by the Executive Board.

Section 7: Other Insurance. The Association may carry other insurance which the Executive Board considers appropriate to protect the Association or the Owners.

Section 8: Owners' Insurance. Insurance coverage on each Lot and public liability coverage for each Lot shall be the sole and direct responsibility of the Owners, and the Association, its Executive Board or the managing agent of the Association shall have no responsibility therefor.

Section 9: Premiums. Insurance premiums for insurance carried by the Association shall be a Common Expense.

#### **ARTICLE XIII. DAMAGE OR DESTRUCTION TO COMMON ELEMENTS**

Section 1: Damage or Destruction.

- A. In the event of damage or destruction to all or a portion of the Common Elements due to fire or other natural disaster, the insurance proceeds, sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair unless:
- (1) the Common Interest Community is terminated;
  - (2) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or
  - (3) eighty percent (80%) of the Owners, including every Owner of a Lot that will not be rebuilt, vote not to rebuild.
- B. If the insurance proceeds with respect to such damaged Common Elements or destroyed Common Elements are insufficient to effect a complete repair, the Association shall present to the Owners a notice of Special Assessment for approval by the membership. If such Special Assessment is approved, the Association shall make such Special Assessment and proceed to make such repairs or reconstruction. If such Special Assessment is not approved, the insurance proceeds may be applied in accordance with the wishes of the membership as expressed by the written consent of sixty-seven percent (67%) of the Owners other than the Declarant, except that the proceeds shall not be distributed to Owners, unless made jointly payable to the Owners and the First Mortgagee of their respective Lots, if any. The Special Assessment as to each Owner and Lot shall be equal to the Special Assessment against every other Owner and Lot. Such Special Assessment shall be due and payable as provided by a resolution of the Executive Board, but no sooner than sixty (60) days after written notice thereof. The Special Assessment provided for herein shall be a debt of each Owner and a lien on his or her Lot and the improvements thereof, and may be enforced and collected in the same manner as any Assessment lien provided for in this Declaration.

Section 2: Use or Distribution of Insurance Proceeds. In the event of damage or destruction to all or a portion of the Common Elements, due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such damage or destruction are insufficient to repair and reconstruct the damaged or destroyed area, the Association shall levy a special assessment in the aggregate amount of such insufficiency.

#### **ARTICLE XIV. MAINTENANCE**

Section 1: Maintenance of the Common Elements.

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- A. The maintenance, repair, reconstruction and operation of the Common Elements shall be the responsibility and expense of the Association and a Common Expense of all of the Owners. In addition thereto, the following shall be the responsibility and expense of the Association and a Common Expense of all of the Owners: (i) mowing, trimming and fertilizing the grass covered portions of all Lots; (ii) trimming all bushes installed by Declarant or installed by Owners with the approval of the Executive Board on the Lots; (iii) maintenance of all landscaping installed by the Declarant or landscaping installed by Owners with the approval of the Executive Board on the Lots, save and except that the respective Owners, and not the Association, shall maintain trees, flower beds and gardens on the Lots; (iv) snow removal from the driveways and sidewalks on all Lots when the depth of snow is greater than one inch (1'); (v) contracting with a service provider for trash removal services for all Lots; and (vi) providing non-potable water to all Lots. The Association shall not need the prior approval of its members to cause such maintenance, repairs, reconstruction and operation to be accomplished.
- B. The Association shall collect as assessments, and expend, funds for the cost of the maintenance, repair and replacement to be performed by the Association under this Section.
- C. Notwithstanding anything to the contrary contained in this Declaration, none of the responsibilities of the Association for management, control, maintenance, repair, replacement and improvement of the Common Elements or improvements thereon shall give rise to any interest of the Association in any Lot or the quality of any improvements therein or thereon, nor any right by the Association to pursue any claims against the Declarant, any member thereof, or any other person, for negligence, breach of express or implied warranties, or any other matters, with respect to any such improvements or the construction thereof.

Section 2: Owner Maintenance Responsibility. Save and except for the Association's maintenance responsibilities specified in Article XIV, Section 1 above, the maintenance and repair of each Lot and the Improvements located thereon shall be the responsibility and expense of the Owner thereof. By way of example, and not in limitation of the foregoing, the following shall be the responsibility and expense of each Owner: (i) subject to the approval of the Executive Board, the maintenance of the buildings and improvements on the Lot; (ii) subject to the approval of the Executive Board, installation and maintenance of any fences on the Lot; (iii) maintenance of gardens, flower beds, and trees on the Lot; and (iv) maintenance, repair, blowout and replacement of irrigation systems on the Lot.

Section 3: Association's Right to Repair, Maintain, Restore and Demolish. In the event any Owner shall fail to perform his maintenance, repair and replacement obligations in a manner satisfactory to the Executive Board, the Association, may, if said failure continues for a thirty (30) day period after written notice to said Owners by the Executive Board, enter upon said Lot subsequent to the expiration of said thirty (30) day time period to perform any or all of such maintenance, repair or replacement. The cost of such maintenance, repair and replacement shall be the personal obligation of the Owner of the Lot on which such work is performed, and shall be subject to all of the terms and provisions applicable to "assessments" as provided in Article VIII hereof, including, without limitation, interest, late charges and lien rights.

Section 4: Maintenance of Drainage. Maintaining proper drainage away from the residences is essential to minimize potential swelling of expansive soils that may exist on the Real Estate. No Owner may install improvements or alter grading to adversely affect drainage on any Lot. Each Owner shall maintain all gutters, downspouts and extensions within such Owner's Lot to insure that the gutters and downspouts remain in the down position and are free and clear of all obstructions and debris and that the water flow from such gutters and downspouts is directed away from the foundation and/or slabs on any Improvement. No Owner may later obstruct or obliterate any drainage swales, pans, easements, or channels located or installed on any Lot or Common Area.

Section 5: Easement for Maintenance Access and Entry. The Association, its officers, agents, employees, independent contractors, successors and assigns shall have a non-exclusive perpetual right and easement over, across and upon all Lots and Common Elements for the purpose of performing the maintenance and repair of the Lots and Common Elements required of the Association under the terms of this Declaration, including, but not limited to, the right to enter upon Owners' Lots to perform landscaping maintenance, snow removal, trash removal, and the like. If damage is inflicted or a strong likelihood exists that it will be inflicted, on the Common Elements, any other property, or any Lot, the Owner responsible for the damage or the expense to avoid damage, or the Association if it is responsible, is liable for the cost of prompt repair or avoidance. All persons performing such work shall use their best efforts to minimize interference with the Owner's use and enjoyment of the Lot when performing such work. Owners shall facilitate access to their Lots by the Association for landscaping maintenance, snow removal, trash removal and other Association maintenance responsibilities by keeping gates unlocked, keeping pets indoors during maintenance operations and keeping the Lots free for obstructions, debris, pet waste and other impediments. The Association shall have the power to promulgate rules and regulations regarding maintenance easement and access requirements, including enforcement procedures, which may, among other things, allow for the imposition of fines and termination of maintenance services for noncompliance.

Section 6: Owner's Negligence. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of the Common Elements, or any improvements located thereon, is caused by the willful or negligent act or omission of any Owner, any member of such Owner's family or by a guest or invitee of such Owner, the cost of such repair, maintenance, reconstruction or the expense to avoid such damage shall be the personal obligation of such Owner to the extent that said Owner would be liable for the acts of such persons under the laws of the State of Colorado; and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction shall be added to the assessment to which such Owner's Lot is subject and shall be subject to all of the terms and provisions of Article VIII of this Declaration. A determination of the negligence or willful act or omission of any Owner, or any member of an Owner's family or guest or invitee of any Owner, and the amount of the Owner's liability therefor, shall be determined by the Association at a hearing conducted by the Executive Board after notice to the Owner, provided that any such determination which assigns liability to any Owner pursuant to the terms of this section may be appealed by said Owner to a court of law.

Section 7: Construction Defects. The Association shall not commence any lawsuit, arbitration or other civil action against the Defendant for construction defects, omissions or errors without first:

- A. Notifying the Declarant in writing of the nature of the claim stating the specific location and description of each claimed defect, omission or error. Failure of the Association to so notify Declarant within thirty (30) days of its first discovery of the claim shall be deemed a waiver of any right to assert said claim, or any other claim for the same defect, error or omission in another location on the property.
- B. Allowing Declarant forty-five (45) days to assess the alleged defect, omission or error, and to commence repairs if necessary, which repairs shall be pursued diligently to conclusion. Prior to commencing repairs, Declarant shall provide to the Executive Board of the Association Declarant's plan of action which shall include the scope, general procedures, inspection procedures, and, if Declarant deems necessary, plans, specifications and shop drawings. In the event Declarant denies liability for the alleged defect, omission or error, or the Executive Board objects to Declarant's remediation plan, the parties shall submit their dispute to binding arbitration as provided below. No claim for a defect, omission or error with respect to a common element or limited common element may be asserted except by the Executive Board. As long as the Declarant acts in accordance with this Section 7, Declarant shall be deemed to have acted in good faith.
- C. Obtaining the consent of at least sixty-seven percent (67%) of the Members of the Association. The question put to the Members shall disclose:
  - (1) Whether the attorneys are to be engaged on a fixed fee, hourly rate or contingency basis, and what the hourly rate is for all attorneys and support personnel;
  - (2) Estimated consultant requirements and fees;
  - (3) Estimated total attorneys' fees, consultants' fees and other costs of litigation, both as a percentage of any possible award and as a fixed dollar amount;
  - (4) The estimated cost of repairs as determined by the signed bids of not less than three licensed contractors from a scope of work prepared by a licensed engineer or architect;
  - (5) The estimated dollar amount of the claim to be advanced and what the net amount to the Association would be after payment of legal fees and costs and whether that amount would be sufficient to make the claimed repairs;
  - (6) The potential damage and loss to the capital value of the Member's assets (Lots) while the Lots are tied up in litigation, and, specifically, the fact that the Lots may not be marketable while involved in litigation. Said estimate shall be provided by a certified appraiser approved by 51% of the Mortgagees or Insurers.

Section 8: Arbitration. Any dispute between the Association and the Declarant shall be decided by binding arbitration. The arbitration shall be conducted in accordance with the Uniform Arbitration Act, CRS §13-22-200 *et seq.* Judgment on the award of the arbitrator may be entered in any court having jurisdiction thereof. The party desiring arbitration shall serve written notice upon the other party, together with designation of the first party's representative. If the person designated by the first party is acceptable to the second party as an arbitrator, the second party shall so notify the first party within ten (10) days and such representative shall serve as the sole arbitrator. If the person so designated is not acceptable to the second party, then the second party shall designate his or its own representative in a written notice to the first party, then the second party shall designate his or its own

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representative in a written notice to the first party within the same ten (10) day period. The two representatives so named, if such is the case, shall within ten (10) days thereafter appoint an arbitrator, and the arbitrator shall then proceed forthwith to hear and unilaterally determine the matter. If either party fails, within the time allowed herein, to appoint its representative, the representative named by the other party shall act as the sole arbitrator and unilaterally decide the matter. If the two representatives are unable to agree upon an arbitrator within the ten (10) days allowed herein, either party may at any time apply to the presiding judge of any court of competent jurisdiction in Weld County for the appointment of an arbitrator, and the arbitrator shall proceed forthwith to hear and unilaterally determine the matter. Attorney's fees and costs may be awarded at the discretion of the arbitrator, but are not mandatory. In no instance may punitive, multiple or other special damages be awarded.

Section 9: Award. In the event of an award resulting from a lawsuit, arbitration or other civil action claiming defects, errors or omissions, the money derived therefrom must be used to make the repairs for which it was awarded. The work shall be performed by licensed and insured third party contractors under contract with the Association. In no event will funds be disbursed directly to Owners for repairs or for any other reason, except for reimbursement for claims which were presented and proven, or stipulated, during the litigation, arbitration or settlement. In the event the award is insufficient to fully fund the repairs, the Executive Board shall determine the shortfall amount and shall either (a) borrow from a commercial lender sufficient funds to complete the work, which debt shall be guaranteed by all the Members individually, if required by the lender, and the repayment of which shall be included in the regular assessments or by Special Assessment, or (b) effect a Special Assessment on the Members to fund the shortfall. Repairs shall be commenced within ninety (90) days of the receipt of any award and pursued diligently to completion.

Section 10: Waiver of Tort and Related Damages. The Association and the Owners waive any claim or theory of recovery for tort damages against Declarant for defects, errors or omissions that have not caused any physical damage to person or property. Declarant's duty to repair a defect, omission or error as outlined in Section 7(B) of this Article is the exclusive remedy which the Association shall have against Declarant for said defect, omission or error. The Association shall not have, and hereby waives, the right to pursue any other remedies or damages, including, but not limited to, consequential, punitive or other special damages against Declarant.

#### **ARTICLE XV. GENERAL PROVISIONS**

Section 1: Eminent Domain. The taking by eminent domain of a Lot(s) or Common Element(s), or any portion thereof, shall be done in accordance with applicable law.

Section 2: Enforcement. Enforcement of this Declaration shall be by appropriate proceedings at law or in equity against those persons or entities violating or attempting to violate any covenant, condition or restriction herein contained. Such judicial proceedings may be prosecuted by an Owner or by the Association. In the event it becomes necessary to commence an action to enforce this Declaration, the court shall award to the prevailing party in such litigation, in addition to such damages as the court may deem just and proper, an amount equal to the costs and reasonable attorneys' fees incurred by the prevailing party in connection with such litigation. The failure to enforce or to cause the abatement of any violation of this Declaration shall not preclude or prevent the enforcement thereof or of a further or continued violation, whether such violation shall be of the same or of a different provision of this Declaration.

Section 3: Duration. This Declaration shall run with the land, shall be binding upon all persons owing Lots and any persons hereafter acquiring said Lots, and shall be in effect in perpetuity unless amended or terminated as provided in this Declaration or by law.

Section 4: Amendment. Except as otherwise provided (i) in this Declaration, or (ii) in cases where the Declaration may be amended by the Declarant, this Declaration may be altered or amended at any time by consent of the then record owners of sixty-seven percent (67%) or more of the Lots, through a duly written and recorded instrument.

Section 5: Severability. If any provision or term of this Declaration is invalidated, such invalidity shall not affect the validity of the remainder of this Declaration.



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IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed as of the day and year first above written.

DECLARANT:

MEYER FARM DEVELOPMENT, INC.,  
a Colorado corporation

By: [Signature]  
David J. Calvin, President

CARDINAL HOMES, LLC, a Colorado limited  
liability company

By: [Signature]  
David J. Calvin, Manager

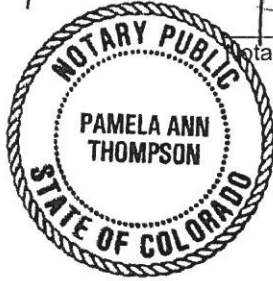
STATE OF COLORADO )  
                                  ) ss  
COUNTY OF WELD     )

The foregoing instrument was subscribed, sworn to and acknowledged before me this 24 day of July, 2006, by David J. Calvin, as President of Meyer Farm Development, Inc., a Colorado corporation and Manager of Cardinal Homes, LLC, a Colorado limited liability company.

WITNESS MY hand and official seal.

My commission expires: 6/11/09

[Signature]  
Notary Public



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EXHIBIT "A"

Real Estate Subject to Declaration of Covenants, Conditions  
and Restrictions For  
Paradise Village at St. Michael's Owners Association

Lots 1-6, Block 2  
Lots 1-6, Block 3  
Lots 1-3, Block 4  
Lots 1-8, Block 5  
Lots 1-6, Block 6  
Lot 1, Block 7  
Lot 1, Block 8  
Lot 1, Block 9  
Outlots A & B

All in St. Michaels Town Center, a replat of Lots 1, 2 and 3, Block 25, Lots 1 and 2, Block 47, St. Michael's  
Subdivision and Tract 4, St. Michael's Subdivision – 1<sup>st</sup> Replat

  
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**RULES AND REGULATIONS  
FOR PARADISE VILLAGE AT ST. MICHAEL'S  
(a Common Interest Community)**

These Rules and Regulations are adopted by Paradise Village at St. Michael's, a Common Interest Community, ("Association"), pursuant to the authority set forth in article 6 of the Declaration of Covenants, Conditions and Restrictions of Paradise Village at St. Michael's recorded in the real property records of the Clerk and Recorder of the County of Weld, Colorado ("Declaration") on \_\_\_\_\_.

**Recitals**

WHEREAS, pursuant to the authority vested in the Board by the Declaration, the Board has promulgated the following rules and regulations for the purpose of protecting and enhancing the rights and interest of the Members of the Association who are Owners of the Apartments and preserve the property value of the Project subject to the Declarations.

NOW, THEREFORE, the Board hereby establishes, makes and adopts the following rules and regulations of the Association.

**Article 1  
Definitions**

1.1 All words and phrases herein shall have the meaning provided in the Declaration, unless otherwise defined herein.

1.2 The use of the word Owner herein shall also apply to and include any person who is permitted to be on the Project by an Owner including, but not limited to, an Owner's family, guests, invitees, tenants, visitors or independent contractors.

**Article 2  
Use Restrictions**

2.1 Use of Unit and Project Subject to the provisions of the Declaration and the Bylaws of the Association, no part of the Project shall be used for any purpose other than housing and the related common purposes for which the Project was designed with respect to the Units. Each Unit shall be used as a residence as permitted by the Declaration or by these Rules and Regulations, and for no other purpose. No Unit or other portion of the Project may be used for any purpose which is unlawful or which fails to comply with rules and regulations that the board may enact from time to time or which constitutes a nuisance or disrupts the reasonable use and enjoyment of the Property by other Owners.

2.2 General Use Restrictions

a. No owner or occupant shall operate any machines, appliances, electronic devices, accessories or equipment in such a manner as to cause, in the judgment of the board, an unreasonable disturbance to others, or cause any damage to or overloading of any mechanical, electrical, plumbing, or any other system serving the Project. So as not to disturb other Owners,



there will be no loud noise or playing of musical instruments, radios, stereos, televisions, etc. in such a manner as to disturb other residents. Volumes shall be appropriate between the hours of 10:00 p.m. and 8:00 a.m.; and at all other times, as determined by the Board.

b. Each Owner shall maintain his/her Unit(s) in good condition and in good order and repair, at the Owner's expense, and shall not do or allow to be done in his/her Unit or on the Common Elements anything which may increase the cost or cause the cancellation of insurance on other Units or on the Common Elements, or increase a risk of loss to said Units or the Common Elements.

c. No industry, business, trade, occupation or profession of any kind, commercial, religious, education, or otherwise, designed for profit, altruism, exploration, or otherwise shall be conducted, maintained, or permitted in any Unit except as hereinafter provided in Section 2.2(d)

d. The Unit restrictions set forth in Section 2.1 and 2.2(c) shall not, however, be construed in such a manner as to prohibit an Owner from: (i) Maintaining his/her personal professional library in a Unit; (ii) handling his/her personal business or professional telephone calls or correspondence from a Unit; (iii) maintaining a computer or other office equipment within a Unit; (iv) utilizing administrative help or meeting with business or professional associates, clients, or customers in the Unit. Such uses are expressly declared customarily incident to the principal residential use and not in violation of Section 2.1 or Section 2.2(c). Any accessory business use of a Unit, permitted by this Section, must be in compliance with all applicable statutes, ordinances and governmental regulations, must not have any adverse impact on the association including but not limited to unreasonable use of the common elements and insurance concerns, and must be conducted in accordance with the Declaration, Bylaws, and these Rules and Regulations of the Association.

e. Children shall not be permitted to play or loiter in the stairways, hallways, elevators or entryways, nor in any storage, parking or maintenance areas. Children under the age of 15 are not allowed to use any of the recreational facilities, including the swimming pool, pool house, and play area, without constant parental supervision.

f. Waterbeds will be permitted in Units only with written advance Association approval.

2.3 Pets No animals of any kind, including but not limited to dogs, cats, livestock, poultry, lizards, snakes, and birds, shall be kept, maintained or raised within the Project, including the Units except as follows:

a. No more than a total of two personal household pets may be kept and raised within any Unit. The Board may prohibit keeping within a Unit certain breeds of kinds of dogs, cats and birds, and other pets, restrict the size of such pets, and impose conditions and restrictions upon keeping such pets, based upon a specific determination that such type or size of pet or that more than one of a particular type of pet may constitute a safety concern or nuisance to other Owners.

b. No animal of any kind may be bred or boarded for commercial purposes within any Unit.

- c. No animals shall be kept or raised within any Unit for any commercial purpose.
- d. All Owners immediately shall clean up after their pets and dispose of their pet's refuse in a suitable container as defined from time to time by the Board.
- e. Pets shall not be allowed to damage grass, shrubs, trees or any other portion of the Project or to become a nuisance or annoyance to others. Expenses and costs incurred by the Association as a result of damage caused by any pet shall be reimbursed to the Association by the owner of the pet responsible for causing the damage.
- f. Pets shall not be allowed outside of the Owner's Unit unless restrained by a suitable leash or enclosure and under the direct control of the pet's owner.
- g. Pets shall not be leashed, chained or tethered to any building, stake, sprinkler, fence, trees or other improvements or landscaping contained within the Project or the Common Elements or otherwise left unattended
- h. Owners agree to comply with:
  - i. Current inoculations of pets as required by applicable Department of Health guidelines; and
  - ii. All other applicable governmental laws and regulations pertaining to keeping, maintaining or raising a pet.

#### 2.4 Signs

- a. Except for rights reserved to the Declarant, no signs or advertising devices of any nature shall be displayed, hung, stored or used on any part of the Project, including outside any Unit, within any Unit in such a manner as to be visible from any location outside of such Unit, or in any hallways or elsewhere on the Project, without the prior written permission of the Board.
- b. Except as may otherwise be provided in the Declaration, so long as any Unit is owned by Declarant in the apartment Project and remains unsold, no owner of a Unit shall be permitted to place any sign on or in the Project, in his Unit, or elsewhere on or in a building advertising his Unit for sale or lease, without prior written permission of the Declaration which can be withheld in Declarant's sole discretion.
- c. All advertisements and postings must be approved in advance by the Association.
- d. Any type of solicitation in Paradise Village at St. Michael's is not permitted.

Any signs not in conformance with the forgoing restrictions may be removed by or on behalf of the Association or Declarant, and any damage caused by the placement and removal of such nonconforming sign shall be paid for by the Owner responsible for the placement of such sign.

#### 2.5 Trash

- a. No resident shall sweep or throw any debris onto the Common Elements. Unit Owners, tenants, occupants and guests shall keep all Common Elements free from trash.



Disposition of garbage and trash shall be by the use of common trash facilities in strict accordance with the rules and regulations adopted or approved by the Board from time to time and also with any statute, ordinance or governmental regulation. Trash receptacles shall not be used for the disposal of hazardous waste or large items such as, but not limited to, building materials and large quantities of landscape materials, furniture, appliances, or hot water heater. Removal of these items from the property is the responsibility of the Unit Owner.

b. All roadways and walkways shall be clear for emergency traffic. No cars, furniture, bicycles, barbecues, toys or other items of personal property shall be stored, left or parked on a roadway, walkway or any other place within the Common Elements.

c. The Association assumes no liability for any loss or damage to articles left or stored in any Common Element or other area.

d. Nothing shall be thrown or tossed from the patio or balcony of any Unit, including, but not limited to, cigarettes, cigars, food, water, stones, missiles, incendiary or explosive devices. "Incendiary or explosive device: shall include, but not by way of limitation, any device consisting in whole or in part of flammable material or other material having the capability of exploding, igniting or burning. The proper authorities will be called to investigate such activity. Any staff or residents witnessing such activity may sign a complaint against the offending party.

e. No foreign substance which may tend to impede the flow of liquid through the sanitary system shall be deposited in the sanitary sewer system from any Unit, including, but not limited to, trash, paper, rags, etc. The expense of any breakage, stoppage or damage resulting shall be borne by Owner.

2.6 Flammable Substances No flammable, combustible or explosive fluids, chemicals or substances shall be kept within the Project except those required for normal household use. In no case shall flammable, combustible or explosive fluids, chemicals or substances be stored in exterior patios or garages.

## 2.7 Parking

a. No vehicle may be parked in such a manner as to impede or prevent ready access to any entrance or exit of a building or parking space, nor shall any vehicle be parked on any such grass, sidewalks or patios of the Project, block garbage trucks from access to any dumpsters in the Project, or be parked in a fire lane or designated "no parking" area.

b. All vehicles parked at the Project must have current license plates. Inoperative or abandoned vehicles may not be parked on any part of the project. Vehicles shall be deemed to be abandoned or inoperative if they meet one or more of the following criteria:

i. Has not moved from location for 20 days, except with the written permission of the Board of Directors.

ii. The vehicle has a flat tire or other condition rendering it inoperable.

iii. Does not have current license plates.

iv. Is in obvious state of disrepair, such as a missing tire, smashed window, missing or damaged body panel or other parts, or the vehicle is on jacks or blocks.

c. Motorcycles' kickstands must have a block of wood, or some other method to support the stand when in use, so as not to damage the surface beneath.

d. Vehicles in violation of parking regulations are subject to being towed at owner's expense and/or being fined by the Board of Directors.

## 2.8 Occupancy/Leasing

a. *Occupancy.* No Owner shall permit his/her Unit to be occupied by more than two persons multiplied by the total number of bedrooms in the Unit, except that any child under the age of one year shall not count toward the above occupancy limit.

b. *Leasing.* The Owner of a Unit shall have the right to lease his/her Unit subject to the Declaration. All leases must be in writing and must affirmatively obligate the lessee and all other resident to abide by the provisions of the Declaration, the Association's Bylaws, other apartment instruments, and these Rules and Regulations that relate to the use of the individual Unit or Common Elements. The Unit Owner leasing the Unit shall deliver a copy of the signed lease to the board within ten days after the lease is executed and prior to occupancy by the tenant. The Association may prohibit a tenant from occupying a Unit until the Lessor-Owner complies with the leasing requirements prescribed by this Sections and/or the provisions of the Declaration, Bylaws, and these Rules and Regulations. A failure by the lessee to comply therewith shall be a default under the lease and shall constitute a violation of the Declaration of these Rules and Regulations by the owner of such Unit.

## 2.9 Household Items

a. Rugs, clothing or other household items may not be hung from any window, balcony, fence or façade of the buildings. No clothesline of any type shall be allowed which is visible from the Common Elements, the street, or any neighbor's Unit. Patios are for the storage of standard size outdoor furniture and potted plants only. No boxes or trash may be stored on the patios. In order to provide a uniform appearance from the exterior of the Units, no Owner shall display, store or use any articles outside the Unit or which may be visible from the outside of his/her Unit (other than draperies, curtains or shades of a customary nature and appearance with a white or off-white exterior), or paint or decorate or adorn the outside of the Unit, or install outside the Unit any canopy or awning or outside radio or television antennae or other equipment, fixtures or items of any kind, without the prior written permission of the Board.

b. The use of grills shall be in compliance with the following:

- i. The grill's propane tank shall be limited to 25 pounds in size.
- ii. Only one such grill shall be permitted per balcony or patio
- iii. No charcoal grills shall be allowed
- iv. All local regulations, laws and ordinances.

2.10 Fireworks No fireworks or firearms may be fired or discharged within the Project.



2.11 Wiring: Air Conditioning No Owner, tenant, occupant or guest may install exterior wiring for electrical or telephone installation or for any other purpose, nor shall any items, including but not limited to, television, cable, or radio antennae, furnace or other vent, machines or air conditioning unit vents, be installed on the exterior of the Common Elements or protrude through the walls or the roof of apartment improvements, except as may be authorized in writing by the Board of Directors. If an Owner wishes to install air conditioning equipment outdoors, this equipment may only be installed within the patio area of the Unit.

2.12 Satellite Dish All Owners must apply to the Board of Directors for permission to install a new satellite dish or to move or alter in any way any then existing satellite dish in the Project. The Board will review applications on their individual merit, and will consider aesthetic, safety and practical issues.

2.13 Garages Owner, tenants, occupants or guests shall not store any flammable, chemical, odorous, explosive or other inherently dangerous materials within the garages. The Association reserves the right to require Owners to remove any contents of a garage that the Association believes might constitute a hazard in the Project. Owners agree to remove such contents upon receipt of written notice from the Association. No part of any garage shall be used for commercial purposes.

2.14 Non-Delegation An Owner may not assign, delegate, transfer, surrender, or avoid the duties, responsibilities, and liabilities of an Owner under the apartment instruments, rules and regulations of the Association; and such an attempted assignment, delegation, transfer, surrender, or avoidance shall be deemed void.

### **Article 3 Enforcement**

3.1 Any complaint which alleges a violation of the Declaration and/or Rules shall be made in writing and shall contain substantially the same information as that set forth in the Witness Statement attached hereto as Exhibit A. At a minimum, the complaint shall set forth:

- a. The name, unit number and phone number of the complaining witness.
- b. The name and unit number of the violator.
- c. The specific details or description of the violation, including the date, time and location where the violation occurred.
- d. A statement by the complaining witness that he or she will cooperate in the enforcement procedures and will provide testimony at any proceedings, hearings or trial which may be necessary.
- e. The signature of the complaining witness and the date on which the complaint is made.

3.2 The Owner shall be notified of the complaint and alleged violations by the Association or its duly authorized agent. If the complaint is based on conduct of the Owner's tenant, the tenant shall also be notified of the alleged violation. The notification shall be in a manner prescribed by

the board in a form similar to that which is attached hereto as Exhibit B ("Notice of Violation".)

3.3 Any Owner charged with a violation of the Rules is entitled to an opportunity for a hearing. If the Owner desires a hearing, the Owner must proceed as follows:

- a. Within seven (7) days after the Notice of Violation has been delivered to the Owner, the Owner must complete the Request for a Hearing form (see Exhibit B-2), which is attached to the Notice of Violation, and return it to the Association or its manager.
- b. If a request for a hearing is timely filed, a hearing on the complaint shall be held before the Board. The hearing shall be conducted no later than twenty-one (21) days after receipt of the Request for a Hearing, as determined by the Board. An Owner may request an expedited hearing.
- c. At any such hearing, the Board shall hear and consider arguments, evidence or statements regarding the alleged violation. Following a hearing, the Board shall issue its determination regarding the alleged violation. The decision of the Board shall be final and binding on the Owner and Association.
- d. Notification of the Board's determination shall be made in a form similar to that which is attached hereto as Exhibit C.

3.4 If no request for a Hearing is filed within seven (7) days, a hearing will be considered waived, the allegations in the Notice of Violation shall be deemed admitted by default, and appropriate sanctions shall be imposed at a meeting of the Board. The Owner shall be notified by the Association of any such determination using the same form and in the same manner as if a hearing had been conducted.

3.5 If an Owner is found to have violated personally or is otherwise liable for a violation of the Declaration and/or Rules, the following shall occur:

- a. If found to be guilty of a first violation of a given provision of the Declaration and/or Rules, the Owner shall be notified of the finding by the Association or its duly authorized agents that a first violation has occurred. The first violation, at the discretion of the Board, may be considered a warning that if any further violations occur a fine for the violation will be imposed. In the alternative, the Board may elect to assess a fine.
- b. If found to be guilty of a second or continuing violation of the same provision of the Declaration and/or Rules, the Owner shall be notified of the finding by the Association or its duly authorized agents. The Owner shall be assessed a fine.
- c. Where a fine is imposed, unless expressly provided in another Section of these Rules, it shall be in the amount of fifty dollars (\$50.00) for a single incident of violation of a Rule, one hundred dollars (\$100.00) for a second single incident of violation of the same Rule, and one hundred fifty dollars (\$150.00) for a third or subsequent single incident of violation of the same Rule, and not to exceed five hundred dollars (\$500.00); or the sum of twenty five dollars (\$25.00) per day for a violation of a continuing nature. A FINE FOR A VIOLATION OF A CONTINUING NATURE WILL CONTINUE UNTIL THE VIOLATION HAS BEEN ELIMINATED AND THE ASSOCIATION HAS RECEIVED NOTICE OF IT.
- d. If found to be guilty of any violation, including a first violation, the notice of determination may also require the Owner to pay for any damage or any unauthorized condition



on the property for which the Owner has been found responsible, to pay the costs of any repairs which have previously been made or will be made by the Association, or to pay any legal expenses and costs incurred by the Association as a result of the violation. Any damage to the Common Elements, which has been repaired by the Owner, must be inspected by the Board's representative to verify that the repair has been properly done. The cost of such inspection and any necessary repairs shall be assessed to the Owner as part of his share of the Common Expenses.

3.6 Any Owner assessed herein shall pay any charges imposed within thirty (30) days of notification that such charges are due. Failure to make the payment on time shall subject the Owner to all of the legal or equitable remedies necessary for the collection thereof. All charges imposed herein shall be added to the Owner's account and shall be collectible as a Common Expense in the same manner as any regular or special assessment against the Unit.

3.7 Time is of the essence of this policy. Notices are deemed delivered either:

- a. At the time of delivery if by personal delivery; or
- b. On the second business day after deposit in the United States Mail.

3.8 The remedies provided for herein are not exhaustive, and the Board may, in addition, take any action provided at law, in equity, or in the Declaration or Association Bylaws to prevent or eliminate violations of these Rules.

**Article 4  
Miscellaneous Fees**

Owners may be charged a fee for services or materials. The services, materials and related fees that may be charged include, without limitation:

- |    |   |                    |
|----|---|--------------------|
| 1. | Transfer Fee:                                       | \$125.00           |
| 2. | Governing Documents & other Association Information | 25.00 + copy costs |
| 3. | Association Assessment Certification:               | 55.00              |
|    | Less than 24-hour notice:                           | 110.00             |

**Article 5  
Miscellaneous**

5.1 Declaration Prevails. In the event that there is any inconsistency between the provisions of these Rules and Regulations and the Declaration, the Declaration shall prevail.

5.2 Amendment. The board may amend, supplement, repeal, replace or modify these Rules and Regulations from time to time as it deems appropriate or convenient.

**IN WITNESS WHEREOF**, the undersigned President of the Association certifies adoption of the foregoing Rules and Regulations of Paradise Village at St. Michael's, by the Board of Directors on the \_\_\_\_ day of \_\_\_\_\_, 2006.



**EXHIBIT B-2  
TO  
RULES AND REGULATIONS**

**(REQUEST FOR A HEARING FORM)**

I HEREBY REQUEST A HEARING ON THE STATEMENTS MADE AGAINST ME AS CONTAINED IN THE notice of Violation dated \_\_\_\_\_, 20\_\_ , alleging a violation of the Declaration, Bylaws or Rules of Paradise Village at St. Michael's.

\_\_\_\_\_  
Owner/Resident's Name (printed)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Area Code and Phone #

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**EXHIBIT C  
TO  
RULES AND REGULATIONS**

To: \_\_\_\_\_  
(Unit Owner/Tenant)  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**NOTICE OF DETERMINATION REGARDING VIOLATION**

On \_\_\_\_\_ 20\_\_, you were notified of a violation of the Declaration, Bylaws, or Rules of the Association. Pursuant to the Association rules:

- A hearing was held at your request regarding the alleged violation.
- You have admitted to the violation by default and waived your right to request a hearing. After considering the complaint and evidence, the following determination has been made and the following action(s) will be taken:
  - You were found not guilty and no action will be taken.
  - A 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> or subsequent violation (circle one) of the Association Declaration, Bylaws or Rules has occurred and a fine in the amount of \$\_\_\_\_\_ is now due.
  - A violation of the Association's Declaration, Bylaws or rules of a continuing nature has occurred and a fine in the amount of \$\_\_\_\_\_ per day from \_\_\_\_ 20\_\_ is now due. A FINE FOR A CONTINUING VIOLATION WILL CONTINUE UNTIL THE VIOLATION HAS BEEN ELIMINATED AND THE ASSOCIATION HAS BEEN NOTIFIED.
  - Damages & expenses in the amount of \$\_\_\_\_\_ have accrued and are due.
  - Legal expenses in the amount of \$\_\_\_ have been incurred by the Association and are due.
  - Damages have occurred or an architectural violation exists, as charged in the complaint. The Association will proceed to have the damages or violation corrected or repaired at your expense.
  - As a result of a second or subsequent violation, we have instructed our attorneys to inform you that legal proceedings will be instituted if further violations occur, and the fees and expenses incurred will be assessed to you.

**PARADISE VILLAGE AT ST. MICHAEL'S**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_



**EXHIBIT A  
TO RULES AND REGULATIONS  
(VIOLATION COMPLAINT – WITNESS STATEMENT)**

PLEASE PRINT OR TYPE. Complete all the information you know. If unknown, please state so. Attach additional sheets if necessary.

**INFORMATION CONCERNING WITNESS(ES) TO VIOLATION**

<hr/> Reporting Witness Name	<hr/> Date
<hr/> Unit #	<hr/> Area code – Phone Number

**ADDITIONAL WITNESS**

<hr/> Name & Address	<hr/> Area code – Phone Number
<hr/> Name & Address	<hr/> Area code – Phone Number

**INFORMATION CONCERNING THE VIOLATOR**

<hr/> Violator's Name	<hr/> Area code – Phone Number
<hr/> Unit #	

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Unit Owner's Name, Address & Phone No, if different than the Violator

**INFORMATION CONCERNING THE VIOLATION**

<hr/> Violation Date	<hr/> Time	<hr/> Location
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Section(s) of Declaration, Bylaws or Rules that was violated

Reporting Witness's Observations:

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Were any photographs or sound recordings made? Yes \_\_\_ No \_\_\_ By whom? \_\_\_  
Include any audio or videotapes or photographs with this form or forward as soon as possible.  
Include the name of the person who made the tape or photograph(s), the date it was made, the location it was made and the name of anyone else who was present.

**I HAVE MADE THE ABOVE STATEMENTS BASED ON MY PERSONAL KNOWLEDGE AND NOT UPON WHAT HAS BEEN TOLD TO ME. I WILL FULLY COOPERATE WITH THE ASSOCIATION AND ITS ATTORNEYS TO PROVIDE ADDITIONAL STATEMENTS OF AFFIDAVITS, AND IN THE EVENT A HEARING OR TRIAL IS NECESSARY, I WILL \_\_\_\_\_ WILL NOT \_\_\_\_\_ APPEAR TO TESTIFY AS A WITNESS.**

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Signature

**EXHIBIT B  
TO RULES AND REGULATIONS  
(NOTICE OF VIOLATION FORM)**

TO: \_\_\_\_\_  
(Unit Owner/Tenant)  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**NOTICE OF VIOLATION**

Re: Violation of Declaration, Bylaws or Rules and Regulation

You are hereby notified, as the Owner/Tenant of the Unit # \_\_\_\_\_ at (Address, City) \_\_\_\_\_, Colorado that you violated the Association's Declaration, Bylaws or Rules and Regulations. The Actions complained of occurred on or about \_\_\_\_\_ 20\_\_ and are described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

UNDER THE ASSOCIATION'S RULES, IF YOU FAIL TO REQUEST A HEARING WITHIN 7 DAYS OR FAIL TO APPEAR AT A HEARING ON THESE CHARGES, YOU WILL BE FOUND GUILTY BY DEFAULT, AND FINES, CHARGES, COSTS, EXPENSES AND LEGAL FEES MAY BE ASSESSED AGAINST YOU AND ADDED TO YOUR MONTHLY ASSESSMENT.

IF VIOLATION EXISTS, WHICH HAS NOT ALREADY BEEN CORRECTED AND YOU FAIL TO MAKE AN APPROPRIATE CORRECTION, THE ASSOCIATION MAY CORRECT THE VIOLATION AT YOUR EXPENSE.  
Please consult the Association's rules for further details.

You may request a hearing by signing, dating and returning the attached Request for a Hearing form with 7 days to the Association at the address below.

Very truly yours,

PARADISE VILLAGE AT ST. MICHAEL'S

By: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Area Code and Phone #