

**DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS FOR RISTVUE (A Common Interest Community)**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS for RistVue is made this 1 - day of October, 2001, by Pheldor Investments, LLC, a Colorado Limited Liability Company ("Declarant").

**ARTICLE I PREAMBLE**

A. Declarant owns that certain real property in the County of Larimer, State of Colorado, legally described on Exhibit "A" hereof ("the Real Property"). The Real Property has been platted as RistVue R.L.U.P. Phase I ("Phase I"). Such Plat has been approved by Larimer County pursuant to the Larimer County Rural Land Use Process. Phase I contains three lots, designated as RistVue Phase I, Lots 1 through 3, inclusive, and Residual Lot A. A parcel is shown on the Plat as "Residual Lot A (Non-buildable Lot)" (that is, support buildings only). Residual Lot A is subject to the use and other restrictions set forth in Article VI, Section 1 of this Declaration. Said restrictions are for the benefit of the Owners of Lots in Phase I, only.

B. A Map is attached hereto as Exhibit B, to show the overall Plan.

C. Declarant reserves the right to add certain parcels to the Common Interest Community. One such property is legally described on Exhibit C and may be added by Declarant to the Common Interest Community as "RistVue Phase II." RistVue Phase II will contain a maximum of 19 Lots.

D. Declarant also owns that certain real property in the County of Larimer, State of Colorado, legally described on Exhibit D hereof. Declarant will make such parcel subject to a Conservation Easement and will deed it to the Homeowners Association as a "Common Lot" when Phase II is platted.

E. Declarant owns that certain real property in the County of Larimer, State of Colorado, legally described on Exhibit E, which property may hereafter be platted as "Residual Lot B (Non-Buildable)." Residual Lot B will be subject to a Conservation Easement with the Larimer County Land Use Trust. The location of Residual Lot B is shown on the overall Map showing the layout of the various parcels referred to in this Preamble, and will also be shown on any Plat filed for RistVue Phase II.

F. Declarant owns certain real property in the County of Larimer, State of Colorado legally described on Exhibit F. As shown on the overall Map, such parcel contains two substantial tracts, connected by a thin, "connecting" area of land. As shown on such Map, the

historically-used farm house and improvements for the old ranch will **not** become part of any of the RistVue Development. Such parcel consists of approximately 70 acres. Declarant reserves the right to expand the Common Interest Community by adding such parcel to RistVue, as "RistVue Phase III." RistVue Phase III will contain a maximum of three Lots.

G. Declarant reserves the right to withdraw small parcels of land from the expansion parcels legally described on Exhibits D and F and to add small parcels of land to the lands described on Exhibits D and F. The total area of real estate added to the Common Interest Community pursuant to such reserved right shall comply with the restrictions set forth in Section 38-33.3.-222 of the Act. The number of Lots within RistVue II may, if approved by Larimer County, be increased to a maximum of 21 Lots, if expansion occurs.

H. If Declarant exercises all of Declarant's expansion rights, the three Phases of RistVue will contain a maximum of 27 Lots. For each expansion. Declarant shall record a Plat showing the expansion parcel and the Lots created within it; all of such Lots shall be subject to this Declaration; and the Common Expense Liability for all Lots for which Plats have been filed shall be adjusted to equal a fraction of which the numerator is one and the denominator is the total number of Lots within all platted Phases of RistVue.

I. RistVue shall be a Common Interest Community and shall be subject to the Colorado Common Interest Ownership Act set forth in Colorado Revised Statutes 38-33.3-101 and following ("the Act").

J. All of the land described on Exhibits A through F is subject to a Wildfire Mitigation Plan administered by the Colorado State Forest Service. Such Plan may be amended or updated from time to time. Such Plan must be complied with, as to each Lot, before a building permit will be issued for such Lot. Thinning of the trees and other growth on the three Lots in RistVue Phase I will be required before a Building Permit will be issued.

K. The Real Property is subject to the Larimer County Rural Land Use Plan. Such Plan includes numerous restrictions and regulations, many of which are referred to in the Notice to Prospective Purchasers, that was recorded with the Plat. Owners of Lots will be subject to the conditions and requirements alluded to in such Notice.

L. Declarant has formed RistVue Homeowners Association ("the Association") a Colorado non-profit corporation, to serve as the Association for all Platted Phases in RistVue.

M. Declarant desires to develop the Real Property for residential purposes. Declarant deems it desirable to subject the Real Property to the covenants, conditions, and restrictions set forth in this Declaration to preserve the values of the individual Lots and to enhance the quality of life for all owners of such Lots.

N. A Map showing the respective locations of the various parcels of land referred to in this Preamble is attached hereto as Exhibit G.

0. Declarant therefore declares that all of the Real Property is and shall be held, transferred, sold, encumbered, conveyed and occupied subject to the terms, restrictions, limitations, conditions, covenants, obligations, liens, and easement that are set forth in this Declaration, all of which shall run with the Real Property and shall inure to the benefit of, and be binding upon, all parties having any right, title, or interest in the Real Property or any portion thereof, and such person's heirs, grantees, legal representatives, successors and assigns.

## **ARTICLE II DEFINITIONS**

The words and terms defined in this Article shall have the meanings herein set forth unless the context clearly indicates otherwise.

Section 1: "Allocated Interests" shall mean and refer to the Common Expense Liability and votes in the Association.

Section 2: "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.

Section 3: "Architectural Control Committee" shall mean and refer to the committee established to review and approve plans for the construction of improvements on Lots as set forth in Article VIII of this Declaration.

Section 4: "Association" or "Homeowners Association" shall mean and refer to RistVue Homeowners Association, a Colorado non-profit corporation established pursuant to Article IX of the Declaration.

Section 5: "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.

Section 6: "Common Expense Liability" shall mean and refer to this liability for Common Expenses allocated to each Lot pursuant to their Declaration.

Section 7: "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.

Section 8: "Common Interest Community" shall mean and refer to the Real Property, including any land which may subsequently be added to and become a part of the Common Interest Community, whether added as Phase II or Phase III, or pursuant to Section 38-33.3-222 of the Act.

Section 9: "Declarant" shall mean Pheldor Investments, LLC, a Colorado limited liability company; its successors and assigns.

Section 10: "Declaration" shall mean and refer to this Declaration, including any amendments hereto and also including, but not limited to, plats of the Property recorded in the Clerk and Recorder's office of Larimer County, Colorado.

Section 11: "Dispose" or "Disposition" shall mean and refer to a voluntary transfer of any legal or equitable interest in a Lot, but the term does not include the transfer or release of a security interest.

Section 12: "Insuree" 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.

Section 13: "Lots" shall mean Lots 1, 2 and 3 in RistVue Phase I. If Phase II is added, it shall also refer to Lots 1 through 19 in RistVue Phase II. If Phase III is added, the term "Lots" shall also refer to Lots 1, 2, and 3 in RistVue Phase III. If expansion occurs in a manner approved by Larimer County, the number of lots in RistVue Phase II may increase to a maximum of 21 such lots.

Section 14: "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. "First Mortgagee" shall mean and refer to a Mortgagee who has a security interest in a Lot prior to all other security interests except the security interest for real property taxes and assessments made by Larimer County, Colorado, or other governmental authority having jurisdiction over the Common Interest Community.

Section 15: "Person" shall mean and refer to a natural person, a corporation, a partnership, an association, a trust, or any other entity or combination thereof.

Section 16: "Plat" shall mean and refer to the plat of the Property as approved by the Board of County Commissioners of Larimer County, Colorado and recorded in the office of the Clerk and Recorder of Larimer County, Colorado and all recorded amendments or supplements thereto.

Section 17: "Real Property" shall mean and refer to RistVue Phase I. If additional Phases in RistVue are added to the Common Interest Community, such term shall also include such additional land. If additional land is added under Section 38-33.3-222 of the Act, such term shall also include such additional land.

Section 18: "Residence" shall mean and refer to a single-family residential dwelling constructed on a Lot. Each Residence must be built within an area defined on each Lot by the setbacks shown on the Plat establishing such Lot, or by the Building Envelope shown on such Plat.

Section 19: "Residential Use" shall mean and refer to use by a single family for dwelling or residential purposes.

Section 22: "Rules and Regulations" shall mean and refer to any instruments, however denominated, which are adopted by the Architectural Control Committee after approval by the Declarant or the Association for the regulations and management of the Common Interest Community, including any amendment to those instruments.

Section 23: "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 sales 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 Larimer County, Colorado, or other governmental authority having jurisdiction over the Common Interest Community.

Section 24: "Single-family" shall mean and refer to any individual or group of persons related by blood or marriage or any unrelated group of not more than four (4) persons living together in a Residence.

Section 25: "Unit Owner" and/or "Lot Owner" shall mean any person that owns any Lot in the Common Interest Community.

### **ARTICLE III COMMON INTEREST COMMUNITY**

Section 1: **Name.** The name of the Common Interest Community is RistVue.

Section 2: **Association.** The name of the Association is RistVue Homeowners Association, a Colorado non-profit corporation.

Section 3: **Planned Community:** The Common Interest Community is a planned community.

Section 4: **County.** The name of the county in which the Common Interest Community is situated is Larimer County, Colorado.

Section 5: **Legal Description.** The legal description of the Real Property initially included in the Common Interest Community is set forth on Exhibits A, B, and C, attached hereto. The additional parcels that Declarant may hereafter add to the Common Interest Community are described on Exhibits D and E. Declarant may also add additional parcels of land in compliance with Section 38-33.3-222.

Section 6: **Maximum Number of Lots.** The maximum number of Lots that the Declarant reserves the right to create within the Common Interest Community for residential purposes is

25. PROVIDED, HOWEVER, that if expansion occurs in a manner approved by Larimer County, the maximum number of lots within RistVue Phase II may be increased to 21, and the total number of Lots for all of the Common Interest Community shall therefore be increased to

27.

Section 7: **Boundaries of Lots.** The boundaries of each Lot are set forth on the Plat. The Plat sets forth the Lot identifying numbers. All residences shall be built within the building envelopes shown on the Plat, with the additional restriction that no building will be closer than 50 feet from any road edge, including easements.

Section 8: **Allocated Interests:** The Common Expense Liability and votes in the Association shall be allocated among the owners as follows:

(a) Each Owner's share of the Common Expenses shall be 1/3. If Phase II is added, each Owner's share shall be 1/22. If Phase III is added, each Owner's share shall be 1/25. If expansion of RistVue Phase II occurs in a manner approved by Larimer County, each Owner's share shall be 1/27. In all events, each Owner's share of the Common Expenses shall equal one divided by the number of platted Lots in RistVue Phase I, Phase II, and Phase III.

(b) Each Owner shall be entitled to one (1) vote for each Lot owned.

Section 9: **Notice.** Notice of matters affecting the Common Interest Community may be given to Lot owners by the Association or by other Lot 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 Lot Owner. Such notice shall be deemed given when hand delivered or when deposited in the United States mail.

#### ARTICLE IV ASSOCIATION

Section 1: **Authority.** The business and affairs of the Common Interest Community shall be managed by the Association. The Association shall be governed by its Bylaws as amended from time to time.

Section 2: **Powers and Duties.** The Association shall have all of the powers, authority and duties permitted pursuant to the Act necessary and proper to manage the business and affairs of the Common Interest Community. The Association may assign its future income, including its right to receive the Common Expense Assessments, only by the affirmative vote of the Lot Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated at a meeting called for that purpose. The Association may adopt reasonable rules and regulations for the regulation and management of the Common Interest Community.

The Association shall be responsible for maintaining the Common Areas, streets, gutter, drainage facilities, and other public improvements within the Common Interest Community. The

Association is authorized to use its assessments, as provided for herein, for the payment of such costs. The streets shall be maintained in good condition by the Association at all times, for the benefit of all Owners.

Section 3: **Facilities.** The Association shall be responsible for, and shall carry out, a regular maintenance program and shall provide adequate funding through its assessments for maintenance, repairs and replacements of improvements (including road, bridges, curbs, gutters, sidewalks, drainage facilities, landscaping, and the like) and common areas. The Association shall provide for continues safety inspections of such improvements and facilities and shall provide immediate follow up maintenance to correct unsafe conditions. The Association shall provide a means to receive and process complaints.

Section 3: **Declarant Control.** The Declarant, or persons designated by it, may appoint and remove the officers and members of the Board of Directors of the Association until 20 Lots have been sold or seven (7) years after the recording of this Declaration, whichever is earlier. The period of Declarant control as herein set forth is subject to the limitations of Section 38-33.3-303(5) and (7) of the Act.

Section: 4 **Dissolution of Association.** The Association may not be dissolved or liquidated, without the prior, written consent of the Board of Commissioners of Larimer County.

## **ARTICLE V SPECIAL DECLARANT RIGHTS AND ADDITIONAL RESERVED RIGHTS**

Section 1: **Special Declarant Rights.** Declarant hereby reserves the right for a period of five (5) years after this Declaration is recorded in the office of the Clerk and Recorder of Larimer County, Colorado, to perform the acts and exercise the rights hereinafter specified ("the Special Declarant Rights"). Declarant's Special Declarant Rights include the following:

(a) **Completion of improvements.** The right to complete improvements indicated on the Plat.

(b) **Exercise of Development Rights.** The right to exercise any Additional Reserved Rights reserved in Section 2 of this Article V.

(c) **Construction Easements.** The right to use easements through any Lot for the purpose of making improvements within the Common Interest Community or within the Property which may be added to the Common Interest Community or appurtenant thereto. Declarant expressly reserves the right to perform construction work and to store materials on Residual Lot A and Common Lot A. Declarant may perform all work without the necessity of any consent or approval of any Owner or Mortgagee. Declarant may construct underground utility lines, pipes, wires, conduits, and other facilities across any Lot or common area for the purpose of installing roads, drainage ways, and furnishing utilities and other services to or for the benefit of the Lots. Declarant may grant easements to public utility companies. If Declarant

grants any additional such easements, the Plat will be amended, if necessary, to refer to such newly-recorded easements.

(d) **Control of Association and Executive Board.** The right to appoint or remove any officer of the Association or any Executive Board member, except that this Special Declarant Right shall be limited to the time period and condition set forth in Article IV, Section 3 above.

(e) **Amendment of Declaration.** The right to amend the Declaration in connection with the exercise of any Special Declarant Rights.

(f) **Amendment of Plat.** The right to amend the Plat in connection with the exercise of any Special Declarant Rights.

(g) **Marketing Matters.** The right to maintain sales offices, management offices, signs advertising the Common Interest Community, and models.

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 ("The Additional Reserved Rights").

(a) **Additional Real Estate.** The right to add additional real estate to the Common Interest Community, including the parcels legally described on Exhibits D, E, and F, and in addition, parcels added in compliance with Section 38-33.3-222 of the Act.

(b) **Lots or Common Elements.** The right to create Lots and common elements within the Common Interest Community, in compliance with the restrictions of this Declaration and the Act.

(c) **Lots.** The right to subdivide Lots or convert Lots into common elements, but only in conformity with this Declaration and the Act.

(d) **Withdrawal.** The right to withdraw parcels of land described on Exhibits D, E, and F from inclusion in Common Interest Community. Such right of withdrawal may not be exercised, as to any parcel, once a Plat adding such parcel to the Common Interest Community has been recorded.

(e) **Dedications.** The right to establish, from time to time, by dedication or otherwise, utility and other easements over, across, and upon the Lots for purposes including, but not limited to roads, services, drainage water and common recreational use.

(f) **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 facilities, which may or may not be a part of the Common Interest Community for the benefit of the Lot Owners and/or the Association.

(g) **Other Rights.** The right to exercise any Additional Reserved Right created by another provision of the 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 Larimer County, Colorado. Such instrument shall be executed by the transferor Declarant and the transferee.

## ARTICLE VI USE AND OTHER RESTRICTIONS

Section 1: **Residual Lot A Restrictions.** Residual Lot A is hereby dedicated in perpetuity for the uses set forth in this Covenant.

The purpose of this Covenant is to restrict the use and development of said Residual Lot A, except as specifically authorized by this Covenant.

Declarant may utilize Residual Lot A for normal farming and ranching activities including, but not limited to, the grazing of livestock, raising of crops, and installation and maintenance of sheds, barns, and other customary farm outbuildings. No residence, commercial structure, or other building not related to normal farm or ranch operations may be constructed on Residual Lot A.

The Davis Ranch Road runs through Residual Lot A and may be maintained, repaired, and replaced hereafter, by the Davis Ranch Road Association.

A portion of the access road serving RistVue Phase II will lie on Residual Lot A. Such road may hereafter be installed, maintained, repaired, and replaced.

Utilities now in place may hereafter be inspected, maintained, repaired, and replaced on Residual Lot A. Additional utilities may hereafter be installed, inspected, maintained, repaired, and replaced on Residual Lot A.

The foregoing restrictions shall be covenants running with Residual Lot A and shall be binding upon Declarant, its successors and assigns.

These restrictions may be enforced by the County of Larimer or by the Owners of Lots within RistVue Phase I.

This Residual Lot A Covenant may be amended only with the express written consent of Larimer County, all Owners of Lots in RistVue Phase I, and the Declarant. Such amendment shall be made only after a published notice and a hearing before the Board of County Commissioners of Larimer County.

Section 2: **Land Use and Building Types.** No Lot shall be used except as the site of a detached single-family dwelling. Said dwelling may include an attached private garage having doors accommodating not more than three cars or other vehicles, abreast of one another. All improvements on each Lot shall meet the requirements of Article VII "Architectural Standards" of this Declaration.

Section 3: **Use:** No person who does not reside on a Lot shall work on a Lot as such person's regular work duties, except domestic household help, lawn and garden caretaker, in the engagement of construction and maintenance of facilities on the Lots, and the Declarant in the development and sale of the Common Interest Community. Home occupations shall be allowed only in compliance with Section 24, below. The Association may adopt such other rules for the Common Interest Community as may be reasonably required to ensure that there are no apparent visits by customers, clients, and service vehicles to the Residence.

Section 4: **Buildings.** No building, fence, bam, coral, paddock, or other permanent structure shall be located on any Lot without first obtaining the written consent of the Architectural Control Committee, approving the proposed location. All such buildings and structures must be located within a location upon the Lot that is approved by the Architectural Control Committee. Such different location approval shall be based upon the same not significantly or unreasonably obstructing the view of any Owner or be reasonably considered an obstruction to any other Lot within the Common Interest Community. All such buildings and structures shall be pursuant to the style, design and other requirements as required by Guidelines and Rules established at Section 2, Article VII. In any event, there shall be no more than two (2) barns, detached garages, sheds or other outbuildings allowed on any Lot, all of which must be no larger than 2000 square feet each. All such barns, detached garages, sheds and outbuildings are also required to be in earth or tree leaf tone colors and architecturally similar to the residence.

Section 5: **Building Color.** All building colors shall be earth or tree leaf tone with non-reflective roofs.

Section 6: **Easements.** Easements for the installation and maintenance of utilities, ditches, landscaping, streets, recreational trails and drainage facilities are reserved as shown on the Plat, or those that may be recorded at a later date. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, which may change the direction of flow of drainage channels in the easements which hinders or obstructs the use of the irrigation system, or which adversely affects landscaping installed by the Declarant. If any landscaping or structure is installed which violates such requirements, the Association may give the property owner written notice to remove such landscaping or structure within no less than fifteen (15) days after such notice is given, and if the owner fails to move the landscaping or structure within that time, the Association may have such work done at the expense of the owner of the Lot. If the work is done by the Association at the owners' expense, the rules for non-compliance as stated in Article X, Section 9 shall apply. The easement area of each Lot and all improvements on it shall be maintained continuously by the owner of the Lot, except for those improvements or landscaping for which the Association, a public authority or utility company is responsible.

Section 7: **Maintenance of Vacant Lots.** The owner of each Lot shall maintain grass and trees; periodically mow grass and prune other vegetation including, but not limited to, that required for wildfire control; and remove any trash or other debris. If an owner fails to maintain a vacant Lot in accordance with such requirements, the Association shall have the right to plant and maintain vegetation on it; periodically thin and control the growth of such vegetation; and remove any trash or other debris. The Association shall establish and charge reasonable fees to the owners of such vacant Lots, for such services. Such services shall be deemed a service charge from the Association made solely to the owners of each of such vacant Lots. Such Owner(s) shall be liable for reasonable attorneys, fees and costs incurred by the Association in collecting such service charge.

Section 8: **Maintenance of Landscaping:** RistVue property is to be landscaped and maintained such as to retain the native vegetation and natural landscape as much as possible. The vegetation and improvements on each Lot shall be maintained in accordance with the requirements of the Wildfire Management Plan. The landscaping on each Lot shall be maintained by the owner, subject however, to the right of the Association to perform any maintenance deemed necessary or desirable to maintain the standards established for the Property, and to assess such owner for such required maintenance. If any Owner fails to maintain landscaping on such Owner's Lot in accordance with such requirements, the Association may invoke the non-compliance provisions hereof. Subject to the restrictions and requirements of the Wildfire Management Plan, all buildings will be screened with vegetation as much as possible. No cutting or lumbering of trees other than those required for site preparation for construction purposes will be permitted except on the removal of dead trees or the fulfilling of fire control protocols.

Section 9: **Maintenance of Exteriors of Residences and other Buildings.** The exteriors of all residences, barns, sheds, and other buildings within the Property shall be maintained in good, attractive condition by the owners thereof. All residences shall be repainted or re-stained periodically as needed. The Association may require an owner to paint or stain his or her residence and other buildings, and upon such owner's failure to do so, the Association may cause such residence or other buildings to be painted or stained and to assess such owner for the costs incurred thereby. If any owner fails to maintain the exterior of a building on such owner's Lot in accordance with the foregoing requirements, the Association may invoke the noncompliance provisions hereof.

Section 10: **Maintenance of RistVue Roads.** The Homeowners Association shall be responsible for maintaining the internal roads within the Common Interest Community in accordance with any standards imposed by Larimer County. Each Lot shall automatically be burdened with the drainage historically undertaken and used, or as created by this Declaration. Declarant and the Association shall have the right to alter the layout and construction of the roads, in a reasonable manner. The Association, in conjunction with the Redstone Road Association and the Davis Ranch Road Association, will maintain the road from Rist Canyon to RistVue Drive.

If the Homeowners Association should for any reason fail to perform its duties to maintain the Common Elements of streets, curbs, gutters, drainage facilities, or other public

improvements within the Common Interest Community, Larimer County may, in accordance with the provisions of the Larimer County Land Use Regulations, after notice as provided therein, undertake to maintain such facilities and the costs of such maintenance shall be required to be paid by the Owners of the Lots within the Common Interest Community, collectable by assessments through the Larimer County treasurer in the manner provided by law for collection, enforcement, and remittance of general property taxes.

Section 11: **Nuisances and Prohibited Uses:** No noxious or offensive activities shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No modular or mobile homes shall be permitted and there shall be no re-subdivision of any Lot.

Section 12: **Temporary Structures.** No structure of a temporary character, trailer, basement, tent, storage shed or shelter, garage, barn or other outbuilding shall be permitted on any Lot at any time, either temporarily or permanently, except by the Declarant during the process of construction, or as approved by the Architectural Control Committee.

Section 13: **Animals.** No animals, livestock, birds, or poultry of any kind shall be raised, bred or kept except that three (3) dogs and three (3) cats and other indoor, household pets may be kept if they are not kept, bred, or maintained for any commercial purpose. No animal or livestock will be permitted to run free and at all times said animal or livestock must be in compliance with all ordinances and regulations of the County of Larimer. The Association may promulgate rules and regulations concerning animals and livestock. Any pet constituting a nuisance may be ordered by the Association to be kept within the enclosed portion of its owner's Lot, or ordered expelled from the Property. Each owner shall be responsible for any damage caused by his or her animals including that caused by overgrazing. No more than two (2) large animal units shall be allowed on any Lot.

Owners shall not allow overgrazing of any pasture area on any Lot. A pasture area shall not be deemed over grazed if the vegetation on it averages two inches (2") in height. If a pasture is over grazed, the Association may require the owner of such pasture to replant it and thereafter control the access to the pasture by such owner's livestock to prevent overgrazing. If an owner fails or neglects to cure an overgrazing problem, the Association shall have the authority to terminate such owner's right to keep livestock.

Section 14: **Recreational Vehicles:** No trailer, motor home, camper unit, boat or similar recreational vehicle shall be parked on streets, driveways, Lots, or be allowed to remain anywhere within the Property, except when sheltered within a garage or approved enclosure.

Section 15: **Aerials-Antennas.** Except as approved by the Architectural Control Committee, no television antenna, radio antenna, aerial or similar equipment of any design shall be mounted on the exterior of any building or erected on any other portion of any Lot. No activity shall be conducted on any Lot which interferes with television or radio reception on any other Lot.

Section 16: **Satellite Dishes:** Satellite dishes may be installed and maintained if screened from the view of other owners and occupiers of Lots. The location and screening method for each satellite dish must be approved in advance by the Architectural Control Committee. Said Committee shall observe and comply with the federal requirements on the placing of satellite dishes.

Section 17: **Fencing:** No fence shall be erected on any Lot within the Property except as approved in advance by the Architectural Control Committee. Smooth wire fence shall be allowed within the Property contingent upon the Architectural Control Committee approval and shall be as unobtrusive as possible.

Section 18: **Wind or Solar-Powered Generators.** No wind-powered or solar-powered generator or pump may be installed on any Lot, unless its location and design is approved in advance by the Architectural Control Committee.

Section 19: **Unsightly Uses:** All Lots shall at all times be maintained in a clean and sanitary condition, and no litter or debris shall be deposited or allowed to accumulate on any Lot. All landscaping trimmed and maintained in good condition at all times. Refuse piles and other unsightly objects or materials shall not be allowed to be placed or to remain upon any Lot. Trash containers shall be placed on the curb and returned from the curb only on pickup days. Nothing unsightly shall be hung from windows, railings, or fences. Clotheslines or other devices for hanging clothes in the open air shall be allowed if screened from the view of other Lots.

Section 20: **Trash Removal:** Residents within the Property shall have their trash picked up by the same trash-hauling company. The Association shall pick the trash-hauling company and the day of the week for the upcoming year at each annual meeting of the Association. Nothing in this Section 19 shall prohibit a resident within the Property from hauling trash or debris for himself or herself. The Association, may if it wishes, install and maintain a locked dumpster for common use. Each resident within the Property shall be separately liable for the trash-hauling charges attributable to his or her Lot.

Section 21: **Mineral Exploration:** No Lot within RistVue shall be used to explore for or to remove any oil, gas, gravel, or minerals of any sort.

Section 22: **Hunting:** No hunting shall be allowed on any Lot.

Section 23: **Right to Farm:** The rural lands surrounding the Property are used for agriculture. Persons moving to the Property must recognize that there are agricultural practices ongoing and which will continue in the agricultural land surrounding this property. These are stated in the attached code of the West.

Agricultural users of rural land should not be expected to change their long established agricultural practices in order to accommodate the intrusions of urban users into their area. Well run agricultural activities will generate oil site impacts, including noise from tractors and equipment; dust from animal pens, field work, harvest, and dirt roads; odor from animal

confinement, silage and manure; smoke from ditch burning; flies and mosquitoes; wildlife; the use of pesticides, herbicides and fertilizers in the fields, including the use of aerial spraying.

The rural nature of the Property is such that law enforcement response time will be slower than in an urbanized area- Snow removal will be slow, if it is done at all. Children are exposed to different hazards in rural areas than in urban settings. Farm equipment, ponds, irrigation ditches, electrical pumps, sprinkler systems, traffic, sand bars, puncture vines, territorial farm dogs and livestock present threats to children. Controlling children's activities is important, not only for their safety, but also for the protection of the surrounding agricultural interests.

Section 24: **Home Occupations:** The conduct of a home occupation within a Residence on a Lot shall be considered accessory to the residential use and not a violation of these Covenants provided that the following requirements are met:

1. Such home occupation shall be conducted only within the interior of the dwelling and shall not occupy more than twenty-five percent (25%) of the floor area within the dwelling.
2. The home occupation shall be conducted only by the residents of the dwelling, and no residents shall be employed in conjunction with the home occupation carried on in the dwelling.
3. No retail sales shall be conducted on the Lot.
4. The conduct of such home occupation must be of a type permitted under the zoning ordinance of the County of Larimer.
5. No evidence of a home occupation shall be visible from outside the dwelling units.

Section 25: **Disabled Vehicles.** Disabled automobiles shall not be stored on streets, driveways, or lots within the Property. No person shall repair or rebuild any vehicle within the Property, except within a garage. Cars allowed on the roads and driveways in the Property must at all times be operable, currently licensed, and maintain a current inspection sticker (if such inspection is required by a governmental entity).

Section 26: **Restrictions on Leasing of Residences.** An owner may lease his residence subject only to the following restrictions:

- A. No Lot owner may lease less than the entire residence.
- B. Any lease agreement shall be required to provide that the terms of this lease shall be subject in all respects to the provisions of the Declaration, and the Bylaws of the Association, and that any failure by the lessee to comply with the terms of such document shall be a default under the lease.

C. All leases shall be in writing and for a term not less than thirty (30) days.

Section 27: **Trees and Ground Cover:** No grading or other soil or earthwork shall be performed on a Lot until plans for placing improvements on such Lot have been approved by the Architectural Control Committee. After completion of each set of improvements on a Lot, the ground shall be restored, as nearly as possible, to its original contours and appearance. Contour changes of more than one foot from existing grades shall require the approval of the Architectural Control Committee.

Section 28: . **Hazardous Materials:** Storage, use or disposal of hazardous or radioactive materials within the Property is prohibited, unless specifically approved in advance by the Architectural Control Committee.

Section 29: **Solar Devices:** The utilization of passive or active solar energy devices is encouraged. However, all solar devices must either be architecturally and aesthetically integrated into the structure they serve or be screened from the view of the street and adjacent Lots and streets. All solar devices, and their placement, must be approved by the Architectural Control Committee.

Section 30: **Commencing and Finishing Construction:** Once construction of any structure is commenced on any Lot, with the prior approval of the Architectural Control Committee, such structure must be diligently continued and completed in accordance with the plans and specifications approved by the Architectural Control committee, within eleven months of commencement, or such longer time as the Architectural Control Committee has reasonably consented to, in light of the nature of the project or other factors. Commencement of construction shall be deemed to commence with the first substantial construction activity (including earthwork) and shall be supervised by a licensed builder.

Section 31: **Rebuilding;** Any structure which is destroyed in whole or in part by fire, windstorm or from any other cause or act of God must be rebuilt, or all debris must be removed and the Lot restored to a slightly condition, within six months of the time the damage occurs.

Section 32: No **trucks or the Like:** No trucks; trail bikes; recreational vehicles; snowmobiles; campers; trailers; boats; boat trailers; vehicles other than passenger vehicles or pickup or utility trucks with a capacity of one ton or less; shall be parked, stored or otherwise kept on any Lot or street within the Property, unless kept in a closed garage or approved outbuilding.

Section 33: **Outside Lighting:** No exterior lighting shall be installed or maintained on any Lot except as approved by the Architectural Control Committee. All such exterior lighting shall be located only in locations or upon structures as approved. No all night lights are to be used and exterior lights should be shrouded to inhibit sky-illumination.

Section 34: **No Subdivision.** No Lot shall be subdivided or utilized for more than one detached single family dwelling (with approved outbuildings and structures) without the prior

approval of the Architectural Control Committee and the approval of the governmental entity having jurisdiction over the Property.

Section 35: **Fire Control:** All Lots and the common land will be part of a Fire Control Plan that may require thinning, vegetation growth control, access trails or other measures as defined by a Professional Forester. Associated costs will be assessed to the lot owners if they do not conduct the work themselves. The use of a 1000-gallon well-water cistern for each household will ensure immediate availability of water for household and fire fighting purposes.

Section 36: **Common Trails:** Recreational trails on roadside easements and the common land shall be available for foot, bicycle or horse traffic. No motorized vehicles except for maintenance vehicles less than 10 mph.

Section 37: **Common Land:** The common land will be maintained by the Homeowners Association for common use, fire prevention and recreation. This could include the availability of horse facilities as the Homeowners Association decides.

Liability insurance for the common land, recreational trails and RistVue roads will be provided by the Homeowners Association through common expense assessments.

Section 38: **Interference with Drainage.** Declarant and all Owners are prohibited from constructing or storing anything in any drainage easement, or in any other way disrupting or changing the drainage pattern as initially designed and installed per the County of Larimer approved storm water drainage plan.

## **ARTICLE VII ARCHITECTURAL STANDARDS**

Section 1: **Restrictions:** No building, bam, corral, shed, storage structure, awning, fence or any other structure shall be erected, placed, or altered on any Lot, nor shall there be any external modifications to any such structure, until the plans and landscaping specifications showing the nature, kind, shape, height, materials, and location of the same have been submitted to and approved in advance by the Architectural Control Committee in writing. Any building, corral, shed or storage structure must be located within the approved building envelope except as approved by the Architectural Control Committee. No landscaping shall be installed on any Lot or altered thereafter, unless a landscaping plan showing the nature, type, height, and location of the proposed landscaping improvements as has been submitted to and approved in advance by the Architectural Control Committee in writing. Without limiting the generality of the foregoing, prior approval of the Architectural Control Committee must be obtained for any of the following:

(i) attachments to the exterior of a structure, (ii) installation of greenhouses, (iii) installation of patio covers, landscaping, screening, trellises and the like, (iv) change in exterior paint colors, (v) installation of any bam, corral, shed, or storage building and (vi) any other exterior change, including cosmetic changes such as garage doors, shutters and the like. Approval will not unreasonably be withheld.

The authority of the Architectural Control Committee shall extend to the quality, workmanship and materials for any structure proposed; conformity and harmony of exterior design and finish with existing structures within the Property; location of all structures with respect to the existing buildings, topography and finished ground elevation; and all other matters required to assure that such structures enhance the quality of the Property and are erected in accordance with the plan for the Property. No metal buildings shall be permitted unless the Architectural Control Committee approves.

Section 2: **Guidelines and Rules:** The Architectural Control Committee may adopt Guidelines and Rules governing the type of structures to be permitted in the Property, permitted construction materials and the like. These Guidelines and Rules are made for the purpose of creating and keeping the Property, so far as possible, desirable, attractive, beneficial, uniform, and suitable in architectural design, materials, and appearance; limiting the use of Lots to single family residential buildings; guarding against unnecessary interference with the natural beauty of the Property; and prohibiting improper uses of adjoining properties in the Property, all for the mutual benefits and protection of all owners.

Section 3: **Size:** The dwelling space of the home, exclusive of the garage, shall contain a minimum of 1,100 square feet and not more than 5,000 square feet of finished living space. No building shall exceed 40 feet in height, and no building shall exceed two stories and loft. All dwellings must be constructed on site. Building that face a view line encompassing a height of land or ridge will have only one story facing the view line of land or ridge and utilize the principle of walkout space on additional floors below.

Section 4: **Garages and Parking:** Each residence shall include a garage having space for not less than two automobiles. An additional garage may be constructed if approved by the Architectural Control Committee. Each Lot must have provisions for off-street parking for at least two automobiles, exclusive of garage space, and said off-street parking shall be provided in such a manner as to not block or impair garage access to and from the street.

Section 5: **Material and Workmanship:** All improvements shall be constructed of good and suitable materials, and all workmanship shall result in first class construction and shall be accomplished in good and workmanlike manner. All dwellings shall include metal, tile, copper or other decorative roof, which shall be subject to the approval of the Architectural Control Committee. Fire resistant structure is to be utilized on all external exposures and elevated decks must be enclosed below by fire resistant materials.

Section 6: **Accessory Buildings:** Barns, garages, as well as small sheds for storage of lawn furniture, yard equipment, gardening equipment, and similar type items, which are well constructed and neat of appearance, shall be permitted, providing the size, design, and location of said structure shall be subject to prior approval by the Architectural Control Committee.

## **ARTICLE VIII ARCHITECTURAL CONTROL COMMITTEE**

**Section 1: Establishment and Membership of Architectural Control Committee:** An Architectural Control Committee has been established by Declarant. The Architectural Control Committee shall continue until such time as the Association may be dissolved. The Architectural Control Committee shall initially consist of three (3) members appointed by Declarant. Until twenty (20) Lots within the Property have been sold by the Declarant, or seven (7) years after this Declaration is recorded, whichever date occurs first, the Declarant shall appoint the Architectural Control Committee including replacement members for any person who retires, resigns, or otherwise becomes unavailable for service as a member or alternate member of the Architectural Control Committee. The Association shall name the members of the Architectural Control Committee, once the Declarant's exclusive right to do so ceases. Members of the Architectural Control Committee appointed by the Association may be removed at any time by the Association, and shall serve for such term as may be designated by the Association or until they resign or are removed by the Association.

**Section 2: Professional Builder:** The owner of each Lot shall retain a qualified, professional contractor to construct the residence and all significant improvements on such owner's Lot.

**Section 3: Address of Architectural Control Committee:** The address of the Architectural Control Committee shall be at the principal office of the Association President.

**Section 4: Submission of Plans:** Prior to commencement of work to accomplish any proposed improvement to property, the person proposing to make such improvement to property ("Applicant") shall submit to the Architectural Control Committee at its offices such descriptions, surveys, plot plans, drainage plans, elevation drawings, landscaping plans, construction plans, specifications and samples of materials and colors as the Architectural Control Committee shall reasonably request showing the nature, kind, shape, height, width, color, materials, and location of the proposed improvements to property. The Applicant shall be entitled to receive a receipt for the same from the Architectural Control Committee or its authorized agent. The Architectural Control Committee may require submission of additional plans, specifications or other information prior to approving or disapproving the proposed improvement to property. Until receipt by the Architectural Control Committee of all required materials in connection with the proposed improvement to property, the Architectural Control Committee may postpone Control of any materials submitted for approval. An example of a recommended set of plans to be submitted to the Architectural Control Committee is contained in the Guidelines and Rules.

**Section 5: Criteria for Approval.** The Architectural Control Committee shall approve any proposed improvement to property only if it deems in its reasonable discretion that the improvement to property in the location indicated will not be detrimental to the appearance of the surrounding areas of the development as a whole; that the appearance of the proposed improvement to property will be in harmony with the surrounding areas of the development area, that the improvement to property will not detract from the beauty, wholesomeness and attractiveness of the development area or the enjoyment thereof by Owners; and that the upkeep and maintenance of the proposed improvement to property will not become a burden on the Community Association. The Architectural Control

Committee may condition its approval of

any proposed improvement to property upon the making of such changes therein as the Architectural Control Committee may deem appropriate.

Section 6: **Architectural Control Committee Guidelines or Rules.** The Architectural Control Committee shall issue guidelines or rules relating to the procedures, materials to be submitted and additional factors which will be taken into consideration in connection with the approval of any proposed improvement to property.

Section 7; **Architectural Review Fees.** The Architectural Control Committee may, in its Guidelines and Rules, provide for payment of fees to accompany each request for approval of any proposed improvement to property. The Architectural Control Committee may provide that the amount of such fees shall be uniform for similar types of any proposed improvement to property, or the fees may be determined in any other reasonable manner, such as based upon the reasonable cost of the proposed improvement to property.

Section 8: **Decision of Architectural Control Committee.** The decision of the Architectural Control Committee shall be made within fifteen (15) days after receipt by the Architectural Control Committee of all materials required by the Architectural Control Committee. The decision shall be in writing and, if the decision is not to approve a proposed improvement to property, the reason therefore shall be stated. The decision of the Architectural Control Committee shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Architectural Control Committee.

Section 9: **Failure of Architectural Control Committee to Act on Plans.** Any request for approval of a proposed improvement to property shall be deemed approved as proposed, unless disapproval or a request for additional information or materials is transmitted to the applicant by the Architectural Control Committee within fifteen (15) days after the date of receipt by the Architectural Control Committee of all required materials.

Section 10: **Notice of Completion.** Promptly upon completion of the improvement to property, the applicant shall give written notice of completion to the Architectural Control Committee and, for all purposes hereunder, the date of receipt of such notice of completion by the Architectural Control Committee shall be deemed to be the date of completion of such improvement to property.

Section 11: **Inspection of Work.** The Architectural Control Committee or its duly authorized representative shall have the right to inspect any improvement to property prior to or after completion, provided that the right of inspection shall terminate fifteen (15) days after the Architectural Control Committee shall have received a notice of completion from the applicant.

Section 12. **Notice of Noncompliance.** If, as a result of inspections or otherwise, the Architectural Control Committee finds that any improvement to property has been done without obtaining the approval of the Architectural Control Committee or was not done in substantial compliance with the description and materials furnished by the Applicant to the Architectural Control Committee or was not completed within one year after the date of approval by the Architectural Control Committee, the Architectural Control Committee shall notify the applicant

in writing of the noncompliance which notice shall be given, in any event, within thirty (30) days after the Architectural Control Committee receives a notice of completion from the applicant. The notice shall specify the particulars of the noncompliance and shall require the applicant to take such action as may be necessary to remedy the noncompliance.

**Section 13. Failure of Architectural Control Committee to Act After Completion.** If, for any reason other than the applicant's act or neglect, the Architectural Control Committee fails to notify the applicant of any noncompliance within thirty (30) days after receipt by the Architectural Control Committee of written notice of completion from the applicant, the improvement to property shall be deemed in compliance if the improvement to property was, in fact, completed as of the date of notice of completion.

**Section 14: Correction of Noncompliance.** If the Architectural Control Committee determines that a noncompliance exists, the applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of receipt by the applicant of the ruling of the Architectural Control Committee. If the applicant does not comply with the Architectural Control Committee's ruling within such period, the matter may be referred to the Association, and the Association may, in its discretion, record a notice of noncompliance against the real property on which the noncompliance exists, may institute judicial proceedings to allow it to remove the non-compliant structure, or may otherwise remedy the noncompliance, and the applicant shall reimburse the Association, upon demand for all expenses incurred therewith. If such expenses are not promptly repaid by the applicant or owner to the Association, the Association may levy a reimbursement assessment against the owner for 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 15: No Implied Waiver or Estoppel.** No action or failure to act by the Architectural Control Committee or by the Association shall constitute a waiver or estoppel with respect to future action by the Architectural Control Committee or the Association with respect to any improvement to property. Specifically, the approval by the Architectural Control Committee of any improvement to property shall not constitute approval of, or obligate the Architectural Control Committee to approve, any similar proposals, plans, specification or other materials submitted with respect to any other proposed improvement.

**Section 16: Architectural Control Committee Power to Grant Variances.** The Architectural Control Committee may authorize variances from compliance with any of the provisions of this Declaration or any Supplemental Declaration, including restrictions upon height, size, floor area or placement of structures or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental 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 Architectural Control Committee. If any such variance is granted, no violation of the provisions of this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration or any Supplemental Declaration for any purpose except as to

the particular property and particular provision hereof covered by the variance, nor shall the Granting of a variance affect in any way the owner's obligation to comply with 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 17: **Compensation of Members.** Members of the Architectural Control Committee shall receive no compensation for services rendered, except rendered, except for its professional members, who shall be reasonably compensated for their services. All members shall receive reimbursement of out of pocket expenses incurred by them in the performance of their duties hereunder.

Section 18: **Meetings of Architectural Control Committee.** The Architectural Control Committee shall meet as necessary to perform its duties hereunder. The Architectural Control Committee may, from time to time, by resolution in writing adopted by a majority of the members, designate a Architectural Control Committee Representative (who may, but need not, be one of its members) to take any action or perform any duties for or on behalf of the Architectural Control Committee, except the granting of approval to property and granting of variances. The action of such Architectural Control Committee Representative within the authority of such Architectural Control Committee Representative or the written consent or the vote of a majority of the members of the Architectural Control Committee shall constitute action of the Architectural Control Committee.

Section 19: **Records of Actions.** The Architectural Control Committee shall report in writing to the Association's Board of Directors all final actions of the Architectural Control Committee and the Architectural Control Committee shall keep a permanent record of such reported actions.

Section 20: **Estoppel Certificates.** The Association shall, upon the reasonable request of any interested party and after confirming any necessary facts with the Architectural Control Committee, furnish a certificate with respect to the approval or disapproval of any improvement to property or with respect to whether any improvement to property was made in compliance herewith. Any person with actual notice to the contrary shall be entitled to rely on said certificate with respect to all matters set forth therein.

Section 21: **Non-liability for Architectural Control Committee Action.** None of the Architectural Control Committee, any member of the Architectural Control Committee, any Architectural Control Committee Representative, the Association, any member of the Association's Board of Directors or Declarant shall be liable for any loss, damage or injury arising out of or in any way connected with the performance of the duties of the Architectural Control Committee unless due to the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the Architectural Control Committee shall not be responsible for reviewing, nor shall its approval of, an improvement to property be deemed approval of the improvement to property from the standpoint of safety, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations.

## **ARTICLE IX THE ASSOCIATION**

Section 1: **Articles of Incorporation and Bylaws.** The interests of all Lot owners shall be governed and administered by the Articles of Incorporation and Bylaws of the RistVue Homeowners Association and by this Declaration. In the event of a conflict between the provisions of the Declaration and the Articles of Incorporation or the Bylaws of the Association, the terms of this Declaration shall be controlling.

Section 2: **Membership:** Each owner of a Lot, upon becoming an owner, shall be a member of the Association and shall remain a member for the period of his ownership.

Section 3: **Examination of Books by First Mortgagee:** The holder of any recorded first mortgage or deed of trust on a Lot in the Property will, upon request, be entitled to:

- (a) Inspect the books and records of the Association during normal business hours;
- (b) Receive an annual financial statement of the Association within ninety (90) days following the end of each fiscal year of the Association; and
- (c) Written notice of all meetings of the Association and shall be permitted to designate a representative to attend all meetings.

Section 4: **Powers.** The Association shall be granted all of the powers necessary to govern, manage, maintain, repair, administer and regulate the in accordance with these Covenants. Notwithstanding the above, unless at least seventy-five percent (75%) of the first mortgages of Lots (based upon one vote for each first mortgage owned or held) have given their prior, written approval, and, except or otherwise provided herein, the Association shall not be empowered or entitled to: by act or omission, seek to abandon or terminate the Declaration.

Section 5: **Formula for Determining Assessments.** Declarant shall pay all common expenses through 2001. Commencing for calendar year 2002 and subsequent years, assessments shall be made no less frequently than annually and shall be based upon a budget adopted no less frequently than annually by the Association. Assessments shall be apportioned among all Lots within the Property based upon a fraction, the numerator of which shall be "one", and the denominator of which shall equal the number of platted Lots within RistVue Phase I, Phase II and Phase III. The owners of each Lot on which a Certificate of Occupancy has been issued for a residence by June 1 of such preceding year shall pay assessments that are double the assessments for Lots on which no such completed residence exists as of said date. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment.

Section 6: **Based Upon Budget:** Assessments shall be based upon the budget which shall be established by the Board of Directors at least annually, which budget shall be based upon the

cash requirements deemed to be such aggregate sum as the Board of Directors of the Association shall from time to time determine is to be paid by all of the Lot owners to provide for the payment of all expenses growing out of or connected with the maintenance, repair, operation, additions, alterations and improvements of and to the Common Facilities, which sum may include, but not be limited to, expenses of management; taxes and special assessments unless separately assessed; premiums for insurance, landscaping and care of grounds; repairs and renovations; wages; common water charges; legal and accounting fees; management fees; expenses and liabilities incurred by the Association or any of its agents or employees on behalf of the Lot owners under or by reason of this Declaration and the Articles of Incorporation and Bylaws of the Association; for any deficit remaining from a previous period; for the creation of reasonable contingency reserve, working capital and sinking funds as well as other costs and expenses relating to the Common Facilities; and for maintaining a reserve fund for replacement of Common Facilities, which shall be funded by regular monthly payments rather than special assessments.

**Section 7: Assessments For Other Charges.** The Association shall have the right to charge Lot owners for special services provided by the Association to such owner including, but not limited to, those matters set forth in Articles VI and VII of this Declaration. That is, such services shall be deemed to have been provided for the exclusive benefit of such Lot owners under Section 38-33.3-315(3)(b) of the Act. The Association shall also have the right to charge a Lot owner for any expense caused by the misconduct of such Lot owner, in which event such expense may be assessed exclusively against such owner. The Association shall have the authority to impose a lien for such special service charges or charges due to misconduct that are not paid when due; said lien shall include court costs and reasonable attorneys' fees incurred by the Association in collecting said charges.

**Section 8: No Other Common Facility Liens:** No additional liens, other than mechanics liens, assessment liens or tax liens, may be obtained against the Common Facilities, and no other assessments, debts or other obligations are assumed by Lot owners, other than as set forth herein.

**Section 9: Assessments:** The total amount of expenses and special service and misconduct charges assessed against each Lot shall be the personal and individual debt of the owner thereof. No owner may exempt himself from liability for contribution towards the common expenses by waiver of the use or enjoyment of any of the Common Facilities or by abandonment of his Lot. An owner's loss of a Lot by foreclosure or by proceedings in lieu of foreclosure shall not cancel or terminate such owner's liability for assessments and charges accrued prior to the date hereof. The Association shall have the authority to take prompt action to collect any unpaid assessment or special service charge which remains unpaid for more than thirty (30) days from the due date for payment thereof. In the event of default in the payment of a special service charge or assessment, the Lot owner shall be obligated to pay interest at the rate of eighteen percent (18%) per annum on the amount of the assessment from due date thereof, together with all expenses, including attorneys' fees, incurred together with such late charges as are provided by the Bylaws or Rules of the Association. Suit to recover a money judgment for unpaid special service charges or assessments shall be maintainable without foreclosing the lien described herein, and such suit shall not be or construed to be a waiver of lien.

Section 10: **Notice of Lien:** All sums assessed but unpaid for the share of common expenses chargeable to any Lot and all sums for special services provided by the Association and charges due to misconduct that are not paid when due shall constitute the basis for a lien on such Lot superior all other liens and encumbrances, except only for tax and special assessment liens on the Lot in favor of any governmental assessing entity, and all sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrances. To evidence such lien, the Association shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of the accrued interest and late charges thereon, the name of the owner of the Lot and a description of the Lot. Such notice of lien shall be signed by one of the officers of the Association on behalf of the Association and shall be recorded in the office of the County Clerk and Recorder of Larimer County, Colorado. Such lien shall attach and be effective from the due date of the assessment until all sums, with interest and other charges thereon, shall have been paid in full.

Section 11: **Enforcement of Lien.** Such lien may be enforced by the foreclosure of the defaulting owner's Lot by the Association in like manner as a mortgage on real property upon the recording of the above notice of lien. In any such proceedings, the owner shall be required to pay the costs, expenses and attorneys' fees incurred for filing the lien, and in the event of foreclosure proceedings, all additional cost, all expenses and reasonable attorneys' fees incurred. The owner of the Lot being foreclosed shall be required to pay to the Association any assessment or special service charge whose payment becomes due for the Lot during the period of foreclosure, and the Association shall be entitled to a receiver during foreclosure. The Association shall have the power to bid on the Lot at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same upon acquiring title to such Lot.

Section 12: **Report of Default.** The Association, upon request, shall report in writing to a first mortgagee of a Lot any default in the performance by any Lot mortgagor of any obligation under the Declaration which is not cured within sixty (60) days.

Section 13: **Release of Lien.** The recorded lien may be released by recording a Release of Lien signed by an officer of the Association on behalf of the Association.

Section 14: **Lien Subordinate to First Mortgage - Limitations.** The lien for special service charges and assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust now hereafter placed upon the Lot subject to assessment; PROVIDED, HOWEVER, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall cause such Lot and grantee thereunder to be relieved of liability for such prior assessments but shall not relieve such Lot or grantee from liability from any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 15: **First Mortgage Foreclosure:** Notwithstanding any of the terms or provisions of this Declaration, in the event of any default on the part of an owner under any first mortgage or first deed of trust, which entitles the holder thereof to foreclose the same, any sale under such

foreclosure, including the delivery of a deed in lieu to such first mortgagee, shall be made free and clear of all then due and owing assessments. No first mortgagee shall be liable for any unpaid common expense assessments accruing prior to the time such mortgagee receives a deed to a Lot.

Section 16: **Joint Liability Upon Transfer:** Upon payment to the Association of a reasonable fee not to exceed Twenty Five Dollars (\$25.00), and upon the written request of any owner or any mortgagee or prospective owner of a Lot, the Association shall issue a written statement setting forth the amount of the unpaid common expenses, if any, with respect to the subject Lot, the amount of the current monthly assessment and the date that such assessments becomes due, a credit for any advanced payments of common assessments, for prepaid items, such as prepaid items, such as insurance premiums, but not including accumulated amounts for reserves or sinking funds, if any, which statements shall be conclusive upon the Association in favor of all person who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within twenty (20) days, all unpaid common expenses which become due prior to the date of making such requests shall be subordinate to the rights of the person requesting such statement and in the case of a grantee of such Lot, the grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for any unpaid assessments against said Lot. The provisions set forth in this Section 17 shall not apply to the initial sales and conveyances of the Lots made by Declarant, and such sales shall be free from all common expenses to the date of conveyance.

Section 17: **Mortgages - Priority.** Each owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The owner of a Lot may create a junior mortgages, liens or encumbrances on the following conditions: (1) that any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for unpaid assessments, and other obligations created by this Declaration, the Articles of Incorporation and the Bylaws of the Association: (2) that the mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgages premises, all of his right, title and interest in and to the proceeds under all insurable policies upon said premises held by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of the Association, and if such request is not granted, such release may be executed by the Association as an attorney-in-fact for such junior mortgage. Additionally, any mortgage or lien is subordinate to these Covenants and the approved Development Agreement.

## **ARTICLE X GENERAL PROVISIONS**

Section 1: **Duration.** Subject to the provisions of Section 1 of this Article, this Declaration shall remain in full force and effect, shall run with the land and shall be binding on all persons having any interest in any Lot in the Property for a period of twenty (20) years from the date this Declaration is recorded and thereafter shall be automatically extended for successive periods often (10) years unless an instrument signed by a majority of the then-owners of Lots in

the Property as been recorded agreeing to change or terminate the Declaration in whole or in part.

Section 2: **Amendments:** Subject to Article X, Section 9, this Declaration, or any portion thereof, may be amended or revoked at any time by an instrument in writing signed by the owners of at least seventy-five percent (75%) of the Lots in the Property and one hundred percent (100%) of the holders of recorded first mortgages or deeds of trust. Any amendment shall be effective only upon the recordation of the written Amendment or ratification thereof containing the necessary signatures of Lot owners and encumbrances holders. No amendment to the Declaration may be made which conflicts with any of the laws o the State of Colorado, or ordinances of the County of Larimer. No amendment shall affect any rights of Declarant unless approved in advance by and consented to by Declarant in writing.

Section 3: **Severability.** Any provision of this Declaration invalidated in any manner whatsoever shall not be deemed to impair or affect in any manner the validity, enforcement or effect of the remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in fill force and effect as if such invalid provision had never been included herein.

Section 4: **Disclaimer:** No claim or cause of action shall accrue in favor of any person in the event of the invalidity of any covenant or provision of this Declaration or for the failure of the Architectural Control Committee or Declarant to enforce any covenant or provision hereof. This Section 4 may be pleaded as a full bar to the maintenance of any such action or arbitration brought in violation of the provisions of this Article.

Section 5: **Waiver:** No provision contained in this Declaration shall be deemed to have abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may occur.

Section 6: **Captions:** The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

Section 7: **Construction:** The use of the masculine gender in this Declaration shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to refer to the plural, and vice versa, when the context so requires.

Section 8: **Notices:** Notices required or permitted by this Declaration shall be made in writing. Notice to a member of the Association shall be sufficient if sent by United States mail, sufficient postage prepaid, to the latest address given by such member to the Secretary of the Association. In such event, notice hall be deemed effective three (3) days after such deposit into the United States mail. Notices may also be given by certified or registered mail, or by hand delivery. If hand delivered, notice hall be effective on the date that delivery is accomplished. If sent by registered or certified mail, notice shall be deemed effective three (3) days after deposit into the United States mail, sufficient postage prepaid.

Section 9: **Non-compliance:** . In the case of non-compliance, if the work has to be done by the Association at the owner's expense, the owner shall pay for such work within three (3) days after notice is given in writing to the owner as to the cost of such work. If the owner fails to pay within said time and the Association thereafter incurs reasonable attorney's fees and costs in collecting such amount from the owner, all such attorney's fees and costs incurred shall likewise be a debt owing by the owner to the Association. .

Section 10: **Dissolution:** The Homeowners Association cannot be dissolved without the written approval of the governmental entity having jurisdiction over the Property.

Section 11: **Enforcement.** This Declaration may be enforced by any Lot Owner, the Declarant, or the governmental entity having jurisdiction over the Property. In the event of an enforcement action, the prevailing party shall be entitled to an award of all reasonable and appropriate costs, expenses and attorney fees.

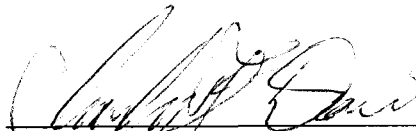
IN WITNESS WHEREOF, THE Declarant has caused this Declaration to be executed as of the day and year first above written.

Pheldor Investments, LLC, a Colorado  
Limited liability corporation

By: .,  
Eldor A. Paul, Manager

#### **APPROVAL AND CONSENT**

The undersigned holder of a lien on the Property subject to the foregoing Declaration hereby approves, ratifies and consents to such Declaration. Signed this day

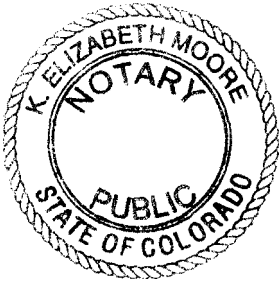
  
\_\_\_\_\_  
Charles F. Davis

STATE OF COLORADO )

) ss. County of Larimer )

The foregoing instrument was acknowledged before me this // day of October, 2001, by Eldor A. Paul, Manager of Pheldor Investments, LLC, a Colorado Limited Liability Company.

My Commission expires: ^1>^1^>^



~~~~~ "W N'otar^Ptbiic "

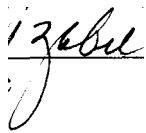
  
\_\_\_\_\_  
K. Elizabeth Moore

EXHIBIT A

DESCRIPTION

Know oil men by these presents that Pheldor Investments LLC and Charles F. Davis being the owners and lien holders of a portion of the North One-half of Section 32, Township 8 North. Range 70 West of the Sixth Principal Meridian, Larimer County, Colorado, more particularly described as follows;

Considering the North line of the East, one-half of the Northwest Quarter of said Section as bearing North 89°49'35" East. between the monuments shown and described hereon. according to a 1935 Government Land Office Survey Plat, with all bearings shown hereon relative thereto:

Commencing at the Northwest Corner of the East, One-half of the Northwest Quarter of said Section 32; thence South 00°21'54" West along the West line of said East, One-half of the Northwest Quarter, a distance of 62.19 feet to a point on the centerline of the Davis Ranch Road, sold point being the POINT OF BEGINNING; thence along the center line of Davis Ranch Road the following courses and distances; thence South 24°39'29" East, a distance of 197.84 feet;

thence South 37°50'55" East. a distance of 182.84 feet to a point of curve; thence southeasterly along the arc of said curve to the right, having a radius of 151.37 feet. a central angle of 20°57'58". an arc length of 55.39 feet, the chord of said curve bears South 27°21'55" East, a distance of 55.08 feet; thence South 16°52'56" East. a distance of 307.61 feet to a point of curve; thence southeasterly along the arc of said curve to the left, having a radius of 220.17 feet, a central angle of 47°10'51". on arc length of 181.30 feet. the chord of said curve bears South 40°28'22" East. a distance of 176.22 feet; thence South 64°03'48" East. a distance of 105.40 feet to a point of curve; thence Easterly along the arc of said curve to the left, having a radius of 347.30 feet, a central angle of 16°11'37". an arc length of 98.16 feet. the chord of said curve bears South 72°09'36" East. a distance of 97.83 feet; thence South 80°15'25" East. a distance of 216.27 feet to the point of curve of a non-tangent curve; thence Easterly along the arc of said non-tangent curve to the right, of the center of which bears South 09°44'32" West. having a central angle of 18°48'17" and a radius of 484.59 feet, on arc length of 159.04 feet. the chord of said curve bears South 70°51'20" East. a distance of 158.33 feet; thence South 61°27'11" East. a distance of 92.60 feet to a point of curve; thence southerly along the arc of said curve to the right, having a radius of 87.95 feet, a central angle of 113°09'00", on arc length of 173.69 feet. the chord of said curve bears South 04°52'41" East, a distance of 146.81 feet; thence departing said centerline South 47°38'12" East. a distance of 212.14 feet; thence North 62°40'22" East. a distance of 424.52 feet to a point in the center of a 60' wide access easement: thence along the centerline of said access easement the following seven (7) courses and distances; 1) Southerly along the arc of a non-tangent curve to the right, the center of which bears North 80°36'43" West. having a radius of 140.00 feet, a central angle of 08°37'16". an arc length of 21.06 feet, the chord of said curve bears South 13°41'55" West, a distance of 21.05 feet to the beginning of a reverse curve;

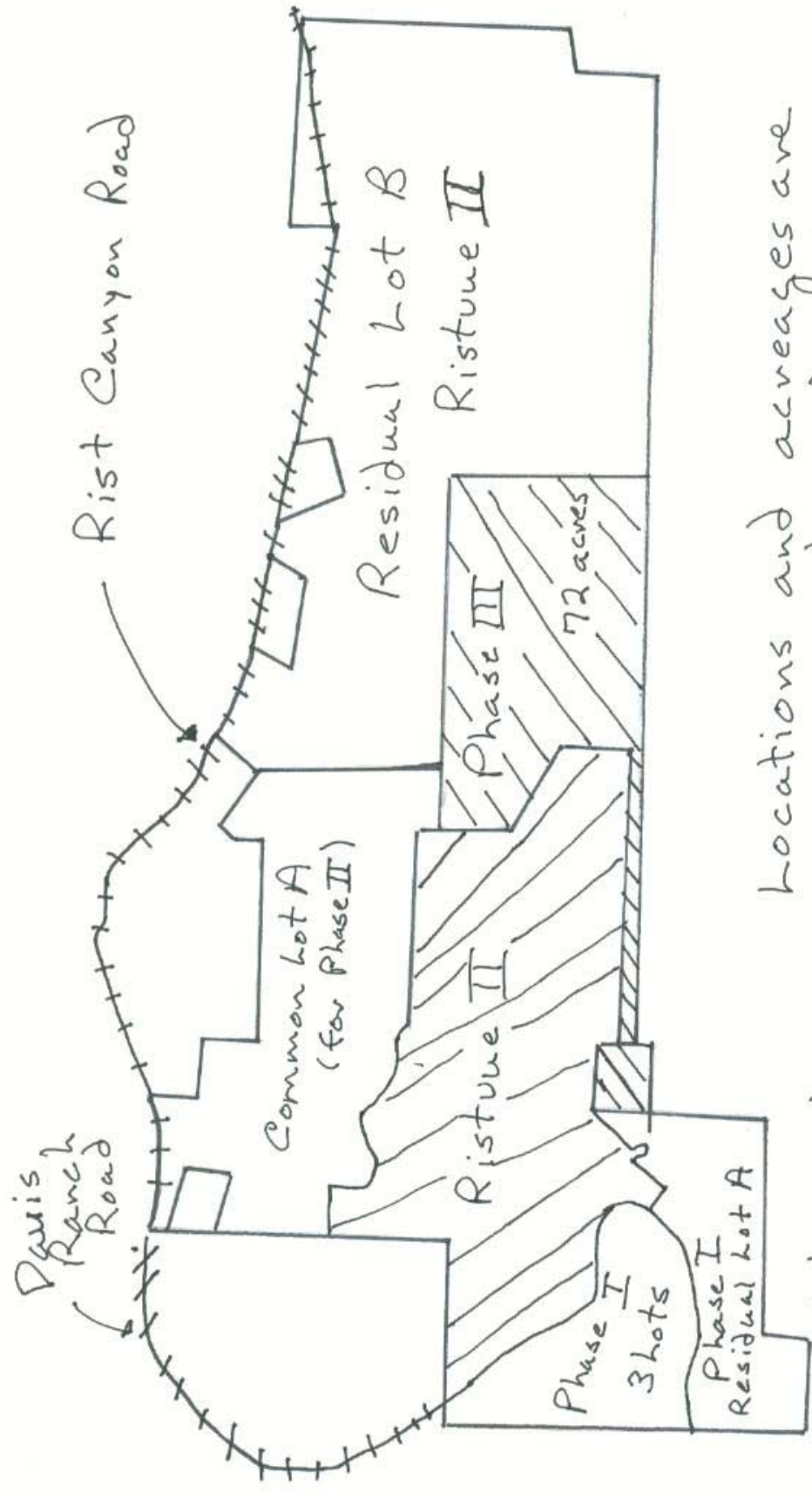
2) Southeasterly along the arc of said curve to the left, having a radius of 50.00 feet, a central angle of 201°25'17". on arc length of 175.77 feet. the chord of said curve bears South 82°42'06" East. a distance of 98.26 feet to a reverse curve; 3) Southeasterly along the arc of said reverse curve to the left. having a radius of 312.44 feet. a central angle of 43°30'56". on arc length of 237.30 feet. the chord of said curve bears North 18°20'43" East. a distance of 231.63 feet; 4) North 40°06'11" East a distance of 156.53 feet to a point of curvature; 5) Northeasterly along the arc of said curve to the right, having a radius of 368.98 feet, a central angle of 6°30'17". on arc length of 106.29 feet, the chord of said curve bears North 41°21'20" East. a distance of 105.92 feet; 6) North 56°36'28" East. a distance of 56.23; 7) North 36°59'43" East. a distance of 30.66 feet;

thence departing said centerline. South 45°40'06" East, a distance of 420.06 feet; thence South 04°52'58" West. a distance of 1,069.40 feet; thence South 89°50'28" West. a distance of 1,636.81 feet; thence South 04°09'32" East. a distance of 521.15 feet to a point on the South line of the Northwest Quarter of said

Section 32; thence South 89°50'28"Wast. along said South line. a distance of 677,85 feet; thence North 00°21'54" East. along the West line of the East one-half of the Northwest Quarter of sold Section 32. <i distance of 2,562.66 (eel to (he POINT OF BEGINNING. Containing 3,049,380 99 square feet or 70.00-12 acres, more or less.

Exhibit B  
 OVERALL MAP: RISTUUE 30

North ↑



Historic ranch buildings and associated parcel NOT included - (160 acres).

Locations and acreages are approximate - Map is intended merely to show general configuration.

## EXHIBIT C

### PORTION TO BE DEVELOPED AS RISTVUE 11

A portion of land lying in the Southeast Quarter of Section 29, the North one-half of Section 32, the Northwest Quarter of Section 33 all lying in Township 8 North, Range 70 West, of the Sixth Principal Meridian, Larimer County, Colorado, generally described as follows;

the following portion of the Southeast Quarter of said Section 29: Beginning at the Southeast corner of said Section 29; thence North 00°01'00" West, along the east line of said Southeast Quarter, a distance of 200.00 feet; thence South 89°34'00" West a distance of 1301.97 feet;

Thence North 56°19'00" West a distance of 1304.09 feet; thence South 89°34'00" West a distance of 439.64 feet more or less to a point on the west line of said Southeast Quarter; thence South 00°02'00" West, along said west line, a distance of 780.0 feet to the Southwest corner of the said Southeast Quarter; thence North 89°34'00" East, along the south line of said Southeast Quarter, a distance of 2601.72 more or less to the Point of Beginning. Together with the North one-half and the Northeast Quarter of the Northwest Quarter of said Section 32 except any portion thereof previously platted as RJSTVUE 1;

Together with the following portion of the Northwest Quarter of the North the Northwest Quarter of said Section 33: Commencing at the Northwest corner of said Section 33; thence South 01°29'00" West along the West line of Said Section 33 a distance of 428.6 feet to the Point of Beginning; thence continuing South 01°29'00" West along the West line of Said Section 33 a distance of 890.0 feet more or less to the Southwest corner of the Northwest corner of the Northwest corner of said Section 33; thence South 88°31'00" East along the South line of said Northwest corner of the Northwest corner of said Section 33 a distance of 600.0 feet; thence North 01°29'00" East a distance of 605.1 feet; thence North 63°06'47" West a distance of 664.2 feet to the Point of Beginning;

prepared June 15, 2001

from deeds and drawings by

others not field verified

by Michael J. DeDcker PLS 20676

CDS Engineering Corp.

165 2<sup>nd</sup> St SW

A portion of land lying in the Southwest Quarter of Section 28 and the Southeast Quarter of Section 29, Township 8 North, Range 70 West, of the Sixth Principal Meridian, Larimer County, Colorado, generally described as follows:

The West 440 feet of the Southwest Quarter of the Southwest Quarter of said Section 29 together with the Northwest Quarter of the Southeast Quarter and the South one-half of the Southeast Quarter of said Section 28: except for the following parcels of land: a portion of the South one-half of the Southeast Quarter of said Section 29 Beginning at the Southeast corner of said Section 29; thence North 00°01'00" West, along the east line of said Southeast Quarter, a distance of 200.00 feet; thence South 89°34'00" West a distance of 1301.97 feet; Thence North 56°19'00" West a distance of 1304.09 feet; thence South 89°34'00" West a distance of 439.64 feet more or less to a point on the west line of said Southeast Quarter; thence South 00°02'00" West, along said west line; a distance of 780.0 feet to the Southwest corner of the said Southeast Quarter;

thence North 89°34'00" East, along the south line of said Southeast Quarter, a distance of 2601.72 more or less to the Point of Beginning, Also except the following parcels described in deeds recorded in the following books and pages, book 1511 page 967, book 2276 page 1341, book 1156 page 465, book 1363 page 64, book 1485 page 134, book 1443 page 611 and book 2218 page 1993.

prepared May 25, 2001

from deeds and drawings by

Others not field verified

by Michael J. DeDecker PLS 20676

CDS Engineering Corp.

165 2<sup>nd</sup> St SW

Exhibit E

## RESIDUAL LOT "B" RISTVUE 11

A portion of land lying in the Southwest One-half of Section 28 and the Northeast Quarter of Section 33, Township 8 North, Range 70 West, of the Sixth Principal Meridian, Larimer County, Colorado, generally described as follows:

The South One-half of the Southwest Quarter and the South One-half of the Southeast Quarter of said Section 28 lying south of Larimer County road 52(aka Rist Canyon Road), together with the North one-half of the Northeast Quarter of Section 33, except the following described parcels;

the West 440 feet of the South one-half of the Southwest Quarter of Section 28, and except the East one-half of the Southeast quarter of the Northeast Quarter of the Northeast Quarter of said Section 33; also except parcels described in deeds recorded in the following books and pages:

book 2218 page 1993, book 1443 page 611, book 1485 page 134, book 1421 page 638, book 1513 page 323, book 1267 page 59, book 1345 page 359, book 1562 page 985, book 1616 page 926, also except those parcels described in reception numbers 99025025 and 92020842.

prepared May 25, 2001

from deeds and drawings by

others not field verified

by **Michael J. DeDecker** PLS 20676

CDS Engineering Corp.

165 2nd St SW

**EXHIBIT F**

PORTION TO BE DEVELOPED AS RISTVUE 1(1)

Portions of the North Half of the Northeast Quarter of Section 32 and the North one-half of the Northwest Quarter of Section 33, all lying in Township 8 North, Range 70 West, of the Sixth Principal Meridian, Larimer County, Colorado, generally described as follows:

Commencing at the North Quarter Comer of said Section 32: thence South 00°15'33" West along the West line of the North one-half of the Northeast Quarter of said Section 32, a distance of 1312.57 feet; thence North 89°43'07" East along the South line of said North one-half a distance of 1003.53' to the Point of Beginning; thence continuing North 89°43'07" East a distance of 1573.6 feet to the Southeast comer of the North one-half of the Northeast Quarter of said Section 32; thence North 01°29'00" East a distance of 60.00 feet; thence South 89°43'07" West a distance of 1292.6 feet; thence North 00°56'27" East a distance of 275.5 feet; thence South 89°42'11" West a distance of 281.9 feet; thence South 00°52'58" West a distance of 275.7 feet to the Point of Beginning; together with the following parcel of land;

The North one-half of the Northwest Quarter of Section 33, except the following portion, Commencing at the Southwest comer of said North one-half of the Northwest Quarter, thence North 01°29'00" East along the West line of said Section 33, a distance of 60 feet to the Point of Beginning; thence continuing North 01°29'00" East along the West line of Section 33 a distance of 830.0 feet; thence South 63°06'47" East a distance of 664.2 feet; thence South 01°29'00" East a distance of 540.0 feet; thence North 88°31'00" West a distance of 600.0 feet to the Point of Beginning. The above described parcel of land contains approximately 72 acres more or less;

prepared June 15,2001

from deeds and drawings by

others not field verified

by Michael J. DeDecker PLS 20676

**CDS Engineering Corp.**

165 2<sup>nd</sup> St SW