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**PROTECTIVE COVENANTS**  
**FOR**  
**CASTLE CREEK VALLEY RANCH P.U.D./SUBDIVISION**  
  
**PITKIN COUNTY, COLORADO**

PROTECTIVE COVENANTS FOR  
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PITKIN COUNTY, COLORADO

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Exhibit C	Avalanche Report, Castle Creek Valley Ranch. Arthur I. Mears, P.E., Inc. (June 10, 1991)
Exhibit D	Avalanche Mitigation Recommendations and Site- Specific Hazard Analysis, Castle Creek Valley Ranch. Arthur I. Mears, P.E., Inc. (March, 1992)

PROTECTIVE COVENANTS  
FOR  
CASTLE CREEK VALLEY RANCH P.U.D./SUBDIVISION  
PITKIN COUNTY, COLORADO

ARTICLE I  
PURPOSE OF COVENANTS - GENERAL REQUIREMENTS - APPLICATION

These Protective Covenants ("Covenants") shall govern and be applicable to that certain real property situated in Pitkin County, Colorado, known as Castle Creek Valley Ranch P.U.D./Subdivision (the "Subdivision"), as defined and described in the Plat of Castle Creek Valley Ranch Subdivision (the "Plat"), recorded in Plat Book 31 at Page 32 of the records of the Clerk and Recorder of Pitkin County, Colorado ("Recorder's Office"). The Subdivision is a planned community, as that term is defined in the Colorado Common Interest Ownership Act. It is the intention of Castle Creek Valley Ranch Partnership, a Colorado general partnership (hereinafter referred to as the "Declarant"), expressed by its execution of this instrument, that the lands within the Subdivision be developed and maintained as a highly desirable, scenic residential subdivision. It is the purpose of these Covenants to establish the appropriate mechanism to assure that the present beauty, views and setting within the Subdivision shall always be protected as much as possible in connection with the uses and structures permitted by this instrument. These Covenants shall be a burden on and run with all the lands within the Subdivision. The Subdivision is situated entirely within the County of Pitkin, State of Colorado. The Subdivision includes all of the real property described on the Plat.

ARTICLE II  
AREA DESIGNATIONS

1. Common Area. Those lands designated as "Common Area" on the Plat. The Common Area shall be the common elements of the Subdivision, as that term is defined in the Colorado Common Interest Ownership Act.

2. Fishing Easement and Conservation Easement. Those areas designated as the Fishing Easement and the Conservation Easement (also designated as "The Preserve") on the Plat.

3. Free-Market Lot or Lot(s). Those Lots designated as Lots 1 through 13, and Lots 15 and 16, on the Plat. These Lots shall have identifying numbers corresponding to the numbers defined and described on the Plat, and shall be the size designated on the Plat.

4. Lot or Lot(s). Free Market Lot(s), Resident-Occupied Lot, and PMH Lot(s), as designated on the Plat.

5. Resident-Occupied Lot. The Lot designated as Lot 14 on the Plat shall be a Resident-Occupied Lot. These Lots shall have

identifying numbers corresponding to the numbers defined and described on the Plat, and shall be the size designated on the Plat.

6. PMH Lot or Lot(s). Those Lots designated as Permanent Moderate Housing ("PMH") Lots 1 through 4 on the Plat. These Lots shall have identifying numbers corresponding to the numbers defined and described on the Plat, and shall be the size designated on the Plat.

7. Private Access and Utility Easement or Easement(s). Those areas designated as "Private Access and Utility Easement" on the Plat. Private non-motorized trails may be established by the Association, as hereinafter defined, within the Access and Utility Easements, except on the private utility easement for Lot 7 shown on the Plat.

8. Public Non-Motorized Trail Easement or Easement(s) and Public Non-Motorized Trail and Utility Easement or Easement(s). Those areas designated as "Public Non-Motorized trail Easement" or "Public Non-Motorized Trail and Utility Easement" on the Plat. These areas may be used to establish non-motorized trails for the public at large, and for the installation of underground utilities where applicable.

9. Private Non-Motorized Trail Easement or Easement(s). Those areas designated as "Private Non-Motorized Trail Easement" on the Plat. Non-motorized trails for the exclusive use of Lot Owners within the Subdivision may be established within the Private Non-Motorized Trail Easements by the Association as hereinafter defined; provided, however, that Declarant or the Association may grant adjacent property owners the right to use Subdivision private non-motorized trails in exchange for reciprocal rights to utilize trails on adjacent property.

10. Roads. Those lands designated as North Hayden Road, South Hayden Road, and Loge's Spring Road on the Plat.

11. Subdivision. "Subdivision" as used in these Covenants shall mean all of the lands described on and governed by the Plat recorded in Plat Book 31 at Page 32 in the Recorder's Office.

12. Well and Water Delivery and Drainage Easements. Those areas designated as Well and Water Facilities Easements on the Plat, including the Water Delivery and Drainage Easements.

13. Building Envelope. Those areas within the Lots in the Subdivision where the primary residence, accessory buildings, and fencing may be approved, subject to review by the Architectural Committee and Pitkin County (where required by Pitkin County Code).

14. Accessory Building Envelope. Those areas within certain Lots in the Subdivision where accessory buildings and

fencing may be approved, subject to review by the Architectural Committee.

15. Fencing Envelope. Those areas within certain Lots in the Subdivision where fencing may be approved, subject to design review by the Architectural Committee.

ARTICLE III  
NUMBER OF LOTS

Declarant reserves the right to create additional Lots on the periphery of the Subdivision, as reserved in these Covenants.

ARTICLE IV  
MEMBERSHIP IN CASTLE CREEK VALLEY RANCH HOMEOWNERS' ASSOCIATION, INC.

All persons, associations, or any other entities (other than Castle Creek Valley Ranch Homeowners' Association, Inc.) who own or acquire the title in fee to any of the Lots in the Subdivision, by whatever means acquired (hereinafter referred to as "Owner(s)" or "Lot Owner(s)"), shall automatically be granted membership in Castle Creek Valley Ranch Homeowners' Association, Inc., a Colorado nonprofit corporation (hereinafter referred to as "the Association"), in accordance with the Articles of Incorporation of Castle Creek Valley Ranch Homeowners' Association, Inc., as the same may be duly amended from time to time. Voting rights of Lot Owners shall be as set forth in the Bylaws of the Association (the "Bylaws"). Lots 15 and 16 were developed with residences pursuant to separate and previous County approvals. Lots 15 and 16 shall not be granted voting memberships in the Association, or participate in future decisions regarding the Subdivision in any way, nor shall they be subject to architectural review or these Protective Covenants, including assessments and enforcement. Further, Lots 15 and 16 shall not be subject to the rules and regulations of the Association, nor shall they have any right in Subdivision roads, trails, or Common Area, or any interest in water rights. Lots 15 and 16 shall have legal descriptions known as Lot 15 and Lot 16, Castle Creek Valley Ranch P.U.D./Subdivision. The Declarant shall have a Class "B" non-voting membership that shall be activated at such time as the Declarant ceases to be the Owner of any Lots, and may be relinquished at any time thereafter upon written notice to the Association.

ARTICLE V  
ARCHITECTURAL COMMITTEE

1. Architectural Committee. The Architectural Committee shall be composed of no less than three (3) or more than five (5) natural persons appointed by the Executive Board of the Association. The persons serving on the Architectural Committee shall serve at the pleasure of the Executive Board who may remove a member of the Architectural Committee and appoint a new member at any time; provided, however, that there shall at all times be three (3) persons serving on the Architectural Committee. The members of the Architectural Committee may also be Board Members



of the Association and need not be Lot Owners. The Architectural Committee shall have and exercise all the powers, duties and responsibilities set out in this instrument. The Declarant shall maintain control of the Architectural Committee until eleven (11) of the thirteen (13) free-market Lots have been sold.

2. Approval by Architectural Committee. No improvements of any kind, including but not limited to, dwelling units, garages, outbuildings, parking areas, tennis courts, swimming pools, fences, walls, driveways, antennae, satellite dishes, outdoor lighting, and flagpoles for the Lots; and barns, stables, sheds, corrals, indoor riding rings, swimming pools, tennis courts, parking areas, ponds, satellite dishes, and flagpoles for the Common Area shall be erected, altered, or permitted to remain within the Subdivision, nor shall any excavating, clearing or landscaping be done in conjunction therewith on any Lots, the Common Area, or the Private Access and Utility Easements within the Subdivision, unless the complete architectural plans and specifications, and a site plan showing the location and orientation thereof for such erection or alteration and landscaping, are approved by the Architectural Committee prior to the commencement of such work, except as Declarant may be specifically permitted to do by these Covenants.

At least three (3) complete sets of the architectural and site development plans and specifications shall be submitted to the Architectural Committee along with a complete list of all materials and colors to be used. All copies of the complete plans and specifications shall be signed for identification by the Lot Owner or his architect. The Architectural Committee shall have the right to request whatever additional specific samples, information, plans, specifications, and reports which it deems necessary to evaluate the development proposal throughout the approval and construction process. In addition, the Architectural Committee may adopt rules and regulations which shall specify what samples, information, plans, specifications, and reports, including an architectural model, which are required to be submitted to the Architectural Committee. In the event the Architectural Committee fails to take any action within forty-five (45) days after three (3) copies of the complete architectural and site development plans, specifications, materials, colors and any requested additional information have been submitted to it, and the submittal has been certified in writing by the Architectural Committee as complete, then all of such submitted architectural plans shall be deemed to be approved. The Architectural Committee shall not unreasonably disapprove the architectural plans, and will set forth in writing the reasons for disapproval. The majority vote of the members of the Architectural Committee shall be required for approval of plans.

3. Building Permit. A Lot Owner may apply for a building permit from the Pitkin County Building Department at any time; provided, however, that the plans submitted to the Building

Department shall not differ in any substantial way from the plans approved by the Architectural Committee. If the plans submitted to or approved by the Building Department differ in any substantial way, as determined by the Architectural Committee from the plans approved by the Architectural Committee, then all approvals of the Architectural Committee shall be deemed automatically revoked.

4. Variations. The Architectural Committee may, by an affirmative vote of a majority of the members of the Architectural Committee, allow reasonable variations as to any of the Covenants and restrictions governing architectural control contained in this instrument, and/or policies or rules promulgated by the Architectural Committee, on such terms and conditions as it shall require; provided, however, that all Owners of adjoining Lots shall receive prior written notice from the Architectural Committee of any requests for a variation. No variation shall be granted which contravenes any provisions of these Covenants required by any approvals obtained by Declarant from Pitkin County for the Subdivision, or which violate the Pitkin County Zoning and Building Codes.

5. General Requirements. The Architectural Committee shall exercise its best judgment to see that all improvements, construction, landscaping and alterations within the Subdivision conform and harmonize with the surroundings and with other structures as to design, materials, color, siting, height, and all other design features. The Architectural Committee shall protect the seclusion and view of each Lot insofar as possible in the development of the Subdivision pursuant to these Covenants, and shall endeavor to protect and preserve the visual character and the wildlife using the property, and preserve and maintain the irrigated lands in the Subdivision.

In its review of any proposed development activity, the Architectural Committee shall evaluate, among other things, the materials to be used on the outside of buildings or structures, including exterior colors, harmony of architectural design with other structures within the Subdivision, location with respect to topography and finished grade elevations, and harmony of landscaping with the natural setting and native trees, bushes and other vegetation within the Subdivision.

The Architectural Committee shall pay special attention to and carefully review the house locations and building heights within the Building Envelopes on Lots 3, 4, 11, and 12 to minimize the impact the houses will have on adjacent Lots. Building on all Lots must comply with revegetation guidelines contained in the Subdivision Improvements Agreement with Pitkin County, and the Landscape Guide Plan contained in the Final Plat drawings. The Architectural Committee shall pay attention to the representations made by the Declarant to the County concerning visual impact of houses within the Subdivision from Castle Creek Road. The Architectural Committee shall pay special attention to

the visibility from Castle Creek Road of houses on Lots 1, 3, 5, 6, and 13.

6. Preliminary Approvals. Persons or other entities who anticipate constructing improvements on lands within the Subdivision, whether they already own lands in the Subdivision or are contemplating the purchase of such lands, may submit preliminary sketches of such improvements to the Architectural Committee for informal and preliminary approval or disapproval. All preliminary sketches should be submitted in at least three (3) sets, and should contain sufficient general information on those matters required to be in the complete architectural and site development plans and specifications, to allow the Architectural Committee to act intelligently on giving an informed preliminary approval or disapproval. The Architectural Committee shall never be finally committed or bound by any preliminary or informal approval or disapproval, until such time as complete architectural and site development plans, specifications, materials and colors are submitted and approved or disapproved. The Architectural Committee may charge a fee which is reasonably related to costs and expenses incurred for providing a preliminary review.

7. Architectural and Site Development Plans. The Architectural Committee shall disapprove any architectural and site development plans submitted to it which do not contain sufficient information for it to exercise the judgment required of it by these Covenants.

8. Architectural Committee Not Liable. The Architectural Committee shall not be liable for damages to any person or association submitting any plans for approval, or to any Lot Owner or Lot Owners, by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove, with regard to such plans. The Architectural Committee shall have no liability or responsibility for any representations made to any Lot Owner or prospective Lot Owner by any third parties. The decisions of the Architectural Committee shall be governed by these Covenants, and any rules or regulations duly adopted by the Architectural Committee shall be pursuant to these Covenants.

9. Written Records. The Architectural Committee shall keep and safeguard, for at least three (3) years, complete permanent written records of all approved applications, including one set of the finally approved architectural and site development plans, and of all actions of approval or disapproval, and all other formal actions taken by it under the provisions of this instrument.

10. Authority to Promulgate Rules and Regulations. The Architectural Committee shall promulgate and adopt rules and regulations necessary to implement these Covenants. These rules and regulations may include submission requirements concerning the type of information, plans, specifications, and reports which

need to be submitted with any application, site specific limitations, restrictions or guidelines for each Lot, and payment of reasonable fees for processing or reviewing the application. These rules and regulations need not be uniform for each Lot, and shall take into account the unique character of each Lot and the Building Envelope, as described in Article VI below, on a Lot. The Architectural Committee may also adopt rules and regulations governing any development within the Common Area, and within the Private Access and Utility Easements, not inconsistent with the requirements of these Covenants or County approvals.

**ARTICLE VI**  
**BUILDING ENVELOPES**

1. **Construction Within Designated Building and Accessory Building Envelopes.** All structures on the Lots, including but not limited to dwelling units and accessory buildings and uses, shall be constructed only within the designated Building and Accessory Building Envelopes, as described on the Plat (the "Building Envelopes"), except as described hereinbelow. All topsoil stockpiles and other construction material storage shall be located within the Building Envelopes.

2. **Construction Within Designated Accessory Building Envelopes.** Accessory buildings shall include, but not be limited to, barns, garages, sheds, stables, tennis courts, swimming pools, and other improvements as determined by the Architectural Committee. Lots which are permitted to have fencing outside of the Building Envelope or Accessory Building Envelope will have an individually designated Fencing Envelope on the Plat. Fencing on these Lots will be limited to forty-two inches (42") in height, except for corrals, which may not exceed one (1) acre in size. Notwithstanding the foregoing, fencing within the Building Envelope may also include screen fencing to visually screen structures and tennis court fencing. Such fencing need not comply with the standard for wildlife fencing, as described in Article XI, Paragraph 8. In addition, entry pillars no higher than six feet (6') tall may be permitted outside of the Building Envelopes upon Architectural Committee approval. Planting which conforms to the landscape guide plan may also be outside of the Building Envelope.

3. **Construction Outside of Designated Building Envelopes.** The following improvements may be approved by the Architectural Committee outside of Building Envelopes and Accessory Building Envelopes:

3.1 Installation of utilities, including wells and well facilities.

3.2 Drainage improvements.

3.3 Individual driveways in the approximate location designated on the Plat. Lot Owners may relocate

driveways within individual Lots only as provided for in Article XII, Paragraph 4 hereof.

3.4 Individual driveway entry pillars no higher than six feet (6') tall, provided they are not visible from Castle Creek Road. Pillars must comply with County height standards in effect at the time of construction.

3.5 Fencing only in designated Fencing Envelopes, subject to the design criteria of Article XII, Paragraph 7.

3.6 Retaining structures along sections of Castle Creek Road, and along roadways and drainages within the Subdivision. Except for those immediately adjacent to Castle Creek Road, retaining structures shall not be visible from Castle Creek Road. The County Engineer shall approve the design of structures along Castle Creek Road.

3.7 Low-use accessory structures (such as tool sheds) within common areas, provided they cannot be seen from Castle Creek Road.

3.8 "Passive" improvements within Castle Creek Park, subject to 1041 Review, if applicable.

3.9 Trail improvements, subject to 1041 Review, if applicable.

3.10 Other uncovered architectural features, such as terraces, which do not require the issuance of an earthmoving permit or building permit, provided they cannot be seen from Castle Creek Road.

4. Landscaping Outside of Building Envelopes. Vegetation screening outside of Building Envelopes shall only be allowed within planting zones identified on the Landscape Guide Plan recorded as part of the Plat in the records of the Pitkin County Clerk and Recorder, except that the following landscaping may be approved by the Architectural Committee outside of designated landscape zones:

4.1 Revegetation of any disturbed or damaged areas within the Subdivision.

4.2 Landscaping as necessary to satisfy the commitments made for wildlife habitat improvements, as described in Article XI, Paragraph 8, below.

4.3 Landscaping as necessary to satisfy the commitments made to screen individual structures, as described in Article VI, Paragraph 5, below.

5. Screening of Structures Visible from Castle Creek Road. A minimum of three (3) rows of twelve foot (12') to fifteen foot (15') evergreen trees (planted to achieve a natural appearance,

but consistent with the commitments made in Article XI, Paragraph 7, below) shall be planted along the full length of all structures which are visible at any time from Castle Creek Road. A planting mitigation plan will be submitted to the Architectural Committee for its approval. The mitigation plan shall include a graphic site plan and cross-sections sufficient to illustrate the relationship between Castle Creek Road, the proposed structure, and the location and height of trees proposed for screening purposes, in order to demonstrate to the satisfaction of the Architectural Committee that the trees have been located to assure the maximum screening of the structure from Castle Creek Road. Lot Owners shall have the option of planting individual evergreen trees of twelve feet (12') to fifteen feet (15') in height in Common Area adjacent to the Castle Creek Road right-of-way, if it can be demonstrated to the satisfaction of the Pitkin County Planning Office and Architectural Committee that such plantings will more effectively screen the structure than would plantings near the structure (without negatively impacting the sightlines within 350 feet of any intersections along Castle Creek Road, including driveways).

6. Exterior Lighting. All exterior lighting shall be designed so that the lighting element (or translucent shield) is not directly visible from the public road right-of-way. In addition, no lighting fixture which is detached from a structure may be installed on a standard in excess of four feet (4') in height.

7. Alternate Building Envelopes. Upon issuance of a building permit for a principal residence to be built within one of the two alternate Building Envelopes on Lots 3, 5, and 13, the second Building Envelope on that Lot shall automatically become an Accessory Building Envelope.

#### ARTICLE VII PERMANENT MODERATE HOUSING LOTS

Four (4) Permanent Moderate Housing Lots (referred to herein as "PMH Lots") have been platted as part of the Subdivision, and shall also comply with the terms and conditions set forth in the Subdivision Improvements Agreement between the Declarant and the Pitkin County Board of County Commissioners. The following additional restrictions shall apply to PMH Lots 1, 2 and 3. The maximum floor area on each Lot shall be limited to 1,500 sq.ft. (FAR), plus a 500 sq.ft. (FAR) garage; provided, however, that if a garage is constructed, it shall be maintained as an enclosed parking area for vehicles, and not converted to storage or other uses. Subgrade space, if any, shall be exempt from the square footage limitations. There shall be a fifteen foot (15') height limit to the highest point of the roof, as measured from existing natural grade prior to construction. Flues and vents shall not exceed the cumulative sum of five feet (5') of linear width above the fifteen foot (15') height limit. All food trash shall be stored within the dwelling unit until it is to be removed from the Lot, and shall only be left outside of the dwelling, but

within the Building Envelope, during daylight hours on the days of scheduled trash pickup in order to avoid attracting wildlife to the area. No domestic animals of any kind shall be left unattended outside of the dwelling unit, unless kennelled or leashed within the Building Envelope. No nuisance domestic animals, including barking dogs, may be kept upon the Lot. All exterior lighting shall be designed so that the lighting element or translucent shield is not directly visible from other Lots in the Subdivision, or from the public or private road rights-of-way. No vehicle of any kind may be stored outside of the dwelling unit for a period in excess of seventy-two (72) hours. A portion of each Lot Owner's monthly assessment shall be set aside in an interest-bearing account for future maintenance and repair of the private road servicing Lot 14, and PMH Lots 1, 2 and 3. All improvements for PMH Lot 4 shall be constructed by the Owner of the Lot.

**ARTICLE VIII**  
**RESIDENT-OCCUPIED LOT**

One (1) Resident-Occupied Lot (Lot 14) has been platted as part of the Subdivision, and shall comply with the terms and conditions set forth in the Subdivision Improvements Agreement between the Declarant and the Pitkin County Board of County Commissioners. The following additional restrictions shall apply to Lot 14. All food trash shall be stored within the dwelling unit until it is to be removed from the Lot, and shall only be left outside of the dwelling, but within the Building Envelope, during daylight hours on the days of scheduled trash pickup in order to avoid attracting wildlife to the area. No domestic animals of any kind shall be left unattended outside of the dwelling unit, unless kennelled or leashed within the Building Envelope. No nuisance domestic animals, including barking dogs, may be kept upon the Lot. All exterior lighting shall be designed so that the lighting element or translucent shield is not directly visible from other Lots in the Subdivision, or from the public or private road rights-of-way. No vehicle of any kind may be stored outside of the dwelling unit for a period in excess of seventy-two (72) hours. A portion of the Lot Owner's monthly assessment shall be set aside in an interest-bearing account for future maintenance and repair of the private road servicing Lot 14, and PMH Lots 1, 2 and 3.

**ARTICLE IX**  
**COMMON AREA**

1. **Common Area.** The Common Area shall be used for access and utility installation, non-motorized trails, open space, agricultural, water storage, and recreational purposes. Agricultural purposes may include agricultural structures and uses necessary for the operation of the agricultural operations and irrigated fields. These may include, but are not limited to, the construction of barns, sheds, stables, irrigation ditches, and buried pipelines. Recreational purposes may include

structures and uses including, but not limited to, horseback riding, Nordic skiing, hiking, and other recreational structures and uses permitted by or approved under the provisions of the Pitkin County Land Use Code. No commercial riding facilities shall be allowed in the Common Area. All agricultural and recreational structures shall comply with the provisions of the Pitkin County Land Use Code, and shall receive administrative approval from the Pitkin County Planning Office, or Special Review Use approval if deemed appropriate by the Pitkin County Planning Office prior to construction. A road for access to Aspen Highlands Ski Area, as hereinafter set forth in Article XIV, Paragraph 6, of these Covenants, shall be permitted in the Common Area off of South Hayden Road. Notwithstanding the foregoing, it is the intent of this Article VIII that no substantial structure shall be erected in the Common Area. Administrative review and approval by the Pitkin County Planning Office shall be permitted for insubstantial accessory agricultural or recreational structures and uses as deemed appropriate by the Pitkin County Planning Office. All improvements and uses shall also be approved by the Architectural Committee under those procedures outlined in Article V herein. The Common Area shall be conveyed by warranty deed to the Association by the Declarant upon the recordation of the Plat. At such time as the Association contracts for or creates any agricultural or recreational facilities on the Common Area, the Association may promulgate rules and regulations governing the use, if any, of these facilities by Lot Owners and guests. These rules and regulations may also require that Lot Owners and guests pay fees for the use of the facilities. The use of the Common Area is restricted to Lots 1 through 14, and specifically excludes PMH Lots 1 through 4, and Free-Market Lots 15 and 16. The Association may not sell or dispose of Common Area without the consent of the Owners of twelve (12) of the thirteen (13) free-market Lots.

2. Castle Creek Park. Declarant has dedicated to public use that portion of the Common Area identified on the Final Plat as "Castle Creek Park" (hereinafter referred to as the "Park"). The following provisions shall serve as the Management Plan for the Park:

2.1 The Park is intended for use as a picnic area for hikers, bikers and fishermen. Picnic tables and benches shall be provided in the area, and a series of footpaths shall be provided along the stream. No active recreational uses (with the exception of fishing) are permitted.

2.2 Ownership of the land within the Park shall be retained by the Association.

2.3 The Park shall be open from Memorial Day through October 15.



2.4 Only daylight use of the Park (dawn to dusk) shall be permitted.

2.5 Overnight camping and overnight parking shall be prohibited.

2.6 An employee of the Association shall clean the Park every two (2) weeks during the period that the Park is open.

2.7 If abuses of the Park are observed by the Association, the County will assist in enforcing Park rules. If the County fails to assist in enforcement, the Association shall have the option to temporarily close the Park until enforcement issues are resolved.

2.8 A maintenance budget of Seven Hundred Fifty Dollars (\$750.00) annually (which shall be increased based on the CPI) for maintenance of the Park shall be included in the Association assessments. In the event the Association fails to maintain the Park, Pitkin County may give the Association written notice of its failure to maintain the Park. If, after sixty (60) days of delivery of said written notice, the Association fails to maintain the Park, Pitkin County may undertake the maintenance of the Park, and charge the Association its cost up to the amount of \$750.00, plus a penalty of ten percent (10%) of the cost of said maintenance.

3. Conservation Easement Parcel. Declarant has granted a Conservation Easement, as shown on the Plat, to Aspen Valley Land Trust for the Conservation Easement Parcel. The Association shall be solely responsible for all obligations of the Declarant contained in the Conservation Easement Grant.

ARTICLE X  
DOMESTIC WATER SUPPLY

1. Construction of Individual Wells (Free-Market Lots). The Declarant has constructed one (1) well on each of Lots 1 through 13 in a location the Declarant has determined is suitable and appropriate for placement of the well(s). The Lot Owner shall be responsible for connecting and running service lines from the well(s) to any improvements on the Lot, and for construction of a reasonable access road to the well drilled by Declarant hereunder. Declarant's obligation to drill the wells described above shall be conditioned on the reasonable scheduling of Declarant, the availability of access and utilities provided to the drilling site by the Lot Owner, and weather and site conditions. All wells shall be drilled and operated in strict compliance with the terms and conditions of the Decrees in Case Nos. 90CW243 and 90CW244, Water Division No. 5, and of any respective well permits issued by the Colorado Division of Water Resources. Wells which have been drilled by the Declarant can be

used by the Declarant for revegetation within the Subdivision until said wells are needed by the Lot Owner.

2. Ownership of Water Rights.

2.1 Declarant shall convey the underground water rights and well permits for the individual wells (underground water rights) to the respective purchaser at closing of each Lot as described in the preceding provision.

2.2 Declarant shall assign and convey to the Association, by separate instrument, all right, title, requirement and interest which Declarant shall have in and to:

(a) The legal water supply plan in Case No. 90CW244, Water Division No. 5;

(b) The Agreement for augmentation water between Declarant and the City of Aspen, Colorado, executed February 5, 1991; and

(c) The Tekoucich Ditch and water right may be conveyed to the Owners of Lot 8 and Lot 9 in conformity with the Water Right Ownership, Maintenance and Use Agreement attached hereto as Exhibit "A". The Owners of said Lot 8 and Lot 9 agree to execute the above-referenced Agreement, as written, and without the requirement for monetary consideration. The Association and all other Lot Owners within the Subdivision shall have no claim, entitlement or rights in and to the Tekoucich Ditch and water right, nor shall they have any responsibility in connection therewith. If the water rights are not conveyed to Lots 8 and 9, in Declarant's sole discretion, they shall be conveyed to the Association as part of a water system. Declarant hereby reserves the right to use the Tekoucich Ditch and water right to fill a 10,000 gallon underground storage cistern in the Common Area.

The Association shall not have the right to assign or convey to any outside third parties any such property, interests and water rights. The Association shall operate the water rights, structures, the legal water supply plan and Agreement with the City of Aspen in strict compliance with said Agreement, Water Court Decrees, and the land use approvals for the Subdivision established by Pitkin County.

3. PMH Lots 1 through 3. The Declarant shall construct and dedicate to Pitkin County the CCVR PMH Well with connecting service lines constructed to each of the Building Envelopes of PMH Lots 1 through 3, in a location that the Declarant shall determine is suitable and appropriate for this well. The Declarant shall construct the CCVR PMH Well within fifteen (15) months of the recording of the Plat in the office of the Clerk and Recorder of Pitkin County, Colorado. Water to PMH Lot 4 will be provided through the water system on Lot 15.

4. Fire Protection. Each house shall be required to be sprinkled for fire protection. These fire protection measures will be at the sole cost of the Lot Owner; provided, however,

that for residences of 5,000 sq.ft. or less on Lot 1 through Lot 4, and Lot 8 through Lot 11 only, Lot Owners may provide on-site water storage as an alternative to sprinklers, subject to the approval of the Pitkin County Fire Marshal.

5. System Operation, Maintenance and Replacement.

5.1 Except as provided for under Paragraph 1 of this Article VIII, the construction, operation, maintenance and replacement of the wells and connecting service lines on each Lot shall be the sole responsibility of the Lot Owner. Once any well constructed by Declarant under Paragraph 1 of this Article is constructed and conveyed to the individual Lot Owner, the operation, maintenance and replacement of such well shall be the sole responsibility of the Lot Owner. Declarant makes no representations, expressed or implied, as to the construction, yield or water quality of any well constructed by Declarant under Paragraph 1 of this Article VIII.

5.2 Upon dedication by Declarant, the operation, maintenance and replacement of the CCVR PMH Well and connecting service lines shall be the sole responsibility of the Owners of PMH Lots 1 through 3.

5.3 Where water well yield is less than fifteen (15) gallons per minute, the Lot Owner shall provide intermediate water storage of one thousand (1,000) gallons, as suggested by the Environmental Health Department.

5.4 Upon dedication and conveyance by Declarant to the Association, the operation, maintenance and replacement of all other structures, requirements of Agreements or Decrees, and maintenance and operation of the water rights shall be the sole responsibility of the Association.

6. Restrictions on Water Use. Restrictions on water use set forth in the Subdivision Improvements Agreement with Pitkin County shall be adhered to.

ARTICLE XI  
GENERAL RESTRICTIONS

1. No Further Subdivision. None of the Free-Market, Resident-Occupied, or PMH Lots described on the Plat shall be further subdivided into smaller Lots, or conveyed or encumbered in any less than the full dimensions as shown on the Plat; provided however, that conveyances or dedications of easements for utilities may be made for less than all of one (1) Lot or the Common Area. Notwithstanding the foregoing, a lot line adjustment between two (2) Lots in the Subdivision, or between a Lot and the Common Area, shall be deemed a permitted subdivision; subject, however, to any reviews or approvals that may be required by the Pitkin County Land Use Code, and also subject to the requirements of Section 38-33.3-212 of the Colorado Common Interest Ownership Act. A lot line adjustment shall not result

in the removal of any additional productive agricultural lands or alteration of approved Building Envelopes.

2. Dogs. Dogs must be kennelled or on leash at all times, or an invisible fence shall be installed at the perimeter of the Building Envelope or Accessory Building Envelope for each Lot on which dogs are to be kept. The Association shall delegate its authority hereunder to Pitkin County Animal Control, and shall designate Pitkin County Animal Control as the enforcement agent for these covenants and regulations promulgated hereunder. Any assessments, fees, fines, or other costs of dog control services assessed against a Lot Owner shall constitute a lien against such Owner's Lot until such fees, fines, assessments and costs are paid. This lien may be collected and enforced, and shall have the same priority as provided with respect to the lien for nonpayment of Association assessments set forth in Article XVI, below. In addition, if a Lot Owner fails to pay such fees, assessments, fines, or costs of services, the Association shall revoke the Lot Owner's permit to keep a dog at the Owner's Lot. No commercial kennelling or commercial raising of dogs shall be allowed in the Subdivision.

In the event that the Association fails to collect any fees, assessments, fines, or costs of enforcement attributable to a Lot Owner, Pitkin County Animal Control shall have the right to enforce collection of said sums directly against the Lot Owner, and any such costs of enforcement and collection, including attorneys' fees, shall be borne by that Lot Owner.

3. Horses, Cats and Other Animals. Subject to the limitations herein, only the Owners of Lots 1, 2, 3, 5, 7, 8, 9, 10, 11, 12, and 13 shall be permitted to keep and stable no less than two (2) horses on their respective Lots, subject to the review and approval of the Architectural Committee and to applicable regulations of Pitkin County. The Subdivision is limited to a total of twenty-six (26) horses. The keeping of horses on Lots 1, 2, 3, 5, 7, 8, 9, 10, 11, 12, and 13 is at the option of the Lot Owners. Declarant reserves the right to allocate the remaining four (4) horses permitted in the Subdivision to Lots in the Subdivision that Declarant deems appropriate. Horses may be kept only within the Building Envelopes, Accessory Building Envelopes, or Fencing Envelopes. Cattle and sheep shall be prohibited in the Subdivision. Domestic cats shall be permitted, subject to rules and regulations which may be promulgated by the Executive Board. Except as is expressly permitted above, no other animals shall be permitted to be kept on or visit any Lot, except as approved by the Association. No commercial raising of horses, cats, or other permitted animals shall be allowed. Commercial riding facilities shall be prohibited in Common Areas and on private Lots.

4. Sewage Disposal Systems.

4.1 The Lots shall be serviced by individual sewage disposal systems which shall be constructed and maintained by the individual Lot Owners. If soils and topographic conditions permit, the system shall be installed within the Building or Accessory Building Envelopes. The location of the system shall be approved by the Architectural Committee. Due to soil or slope conditions on some Lots, additional expense may be incurred in the construction of engineered sewage disposal systems meeting the sewage disposal regulations of the Pitkin County Environmental Health Department. Sewage disposal areas shall be revegetated at Lot Owner's expense, no later than the next growing season following installation. It is recommended that all sewage disposal systems be designed by a qualified registered engineer with local experience.

4.2 PMH Lots 1 through 3 may be serviced by a common sewage disposal system.

4.3 Prior to issuance of building permits for any dwelling units in the Subdivision, the Environmental Health Department shall be contacted to perform site inspections to determine septic system design and location specifications for each Lot. Lot Owners shall be encouraged to utilize water conservation methods in septic systems, including dosing effluent and splitting "grey" water portions to subsurface irrigation systems.

5. Geologic Constraints. All construction within the Subdivision shall adhere to the recommendations suggested by the Engineer and Geologist set forth hereinbelow:

5.1 Lots 1 through 7, Lot 14, and PMH Lots 1, 2, and 3:

(a) Engineered foundations to be recommended based on bearing and equivalent fluid pressure values, which shall be provided prior to issuance of a building permit.

(b) Foundation drainage systems on all structures shall be shown on building plans and constructed.

(c) Geotextiles as a soil separator on prepared roadway subgrades, where deemed necessary on a case-by-case basis by the engineer, shall be shown on building plans, and shall be installed.

(d) Positive drainage shall be incorporated at all building sites, and road-side ditches shall be utilized.

(e) Cut and fill slopes shall be revegetated at the end of each construction season.

5.2 Lots 8 through 13:

(a) Prior to building permit application, residential building foundations and foundation drainage shall be approved by

a registered engineer.

(b) Positive drainage shall be maintained around all residences, and through construction of roadside ditches.

(c) Cut and fill slopes shall be revegetated at the end of each construction season.

(d) Residences and accessory structures shall incorporate professional engineered design to mitigate geologic hazards on-site. This design shall be approved by a professional geologist, and submitted with a building permit application.

### 5.3 PMH Lot 4:

(a) Engineered foundations to be recommended based on bearing and equivalent fluid pressure values, which shall be provided prior to issuance of a building permit.

(b) Foundation drainage systems on all structures shall be shown on building plans and constructed.

(c) Geotextiles as a soil separator on prepared roadway subgrades shall be installed where deemed necessary on a case-by-case basis by the County Engineer.

(d) Positive drainage shall be maintained around the residence, and through construction of roadside ditches.

(e) Cut and fill slopes shall be revegetated at the end of each construction season.

6. Avalanche Constraints. Affected Lot Owners shall adhere to the recommendations prepared by Arthur Mears, Natural Hazards Consultant, for mitigation of avalanche hazard, as described in the following Exhibits attached hereto and made a part hereof:

Exhibit "B" - "Snow Avalanche Areas Castle Creek Valley Ranch, Pitkin County", June, 1989

Exhibit "C" - "Castle Creek Valley Ranch -- Avalanche Hazard Re-Evaluation, Access Road Realignment", June, 1991 (applies to South Hayden Road only).

Exhibit "D" - "Avalanche Mitigation Recommendations and Site-Specific Hazard Analysis for Castle Creek Valley Ranch", March, 1992 (applies to Lots 8, 10, 11, 12, and 13 only).

7. Wildfire Mitigation Measures. All construction within the Subdivision shall adhere to the applicable wildfire mitigation measures set forth hereinbelow:

7.1 The Declarant shall provide, off of South Hayden Road, common water storage facilities, such as ponds with a capacity of at least ten thousand (10,000) gallons, and a depth of at least six feet (6'), with a dry hydrant in close proximity in such location or locations that the Declarant shall determine is suitable for the placement of the common water storage

facilities. Any ponds or other water storage facilities provided in the common areas of the Subdivision shall be accessible for emergency firefighting purposes. The Declarant may elect, however, to provide, off of either North Hayden Road or South Hayden Road, a ten thousand (10,000) gallon underground storage cistern if ponds are not constructed. Any area disturbed in the undergrounding will be revegetated.

7.2 Sprinklers shall be installed in every residence; provided, however, that for residences of 5,000 sq.ft. or less on Lot 1 through Lot 4, and Lot 8 through Lot 11 only, Lot Owners may provide on-site water storage as an alternative to sprinklers, subject to the approval of the Pitkin County Fire Marshal.

7.3 Brush and debris shall be removed within a minimum perimeter of ten feet (10') around residential and accessory structures. No new trees (with the exception of aspens which do not touch or overhang any structures) or tall brush (low ornamental shrubs shall be permitted) shall be planted in this area.

7.4 A minimum stand separation of fifty percent (50%) of the crown diameter shall be required parallel to all structures between clumps of brush within a thirty foot (30') perimeter of the structure. This commitment, however, does not apply to trees (except as noted in Subparagraph 7.7 below).

7.5 A minimum stand separation of fifty percent (50%) of the crown diameter shall be maintained in the upslope direction between clumps of brush on the gambel oak-covered hillsides below Lots 4 and 6 (where slopes exceed thirty percent [30%]).

7.6 Fuel breaks between clumps of brush shall be required parallel to the roadway for thirty feet (30') on each side of the three (3) roadways of the Subdivision. This commitment, however, does not apply to trees.

7.7 Within a one hundred foot (100') perimeter of all structures within the Subdivision, a spacing of twenty feet (20') shall be required at all times between trunks of any new evergreen trees which are planted. Cutting and clearing of dead trees and dead brush will be required within one hundred feet (100') of all structures.

7.8 The driveways for Lot 1, Lot 2, Lot 5, Lot 8, Lot 10, Lot 11, and Lot 12 shall be constructed to enter the roadway at a ninety degree (90°) angle so that they may be used as a turnaround for emergency equipment. A width of sixteen feet (16') shall be maintained on these seven (7) driveways for the first twenty-five feet (25') from the Subdivision road, and a minimum inside turning radius of forty feet (40') shall be maintained. The driveways for the remaining new Lots in the

Subdivision (Lot 3, Lot 4, Lot 6, Lot 7, Lot 9, Lot 13, Lot 14, and the PMH Lots) do not need to be designed to these standards. Specifically, the driveways to Lot 3, Lot 4, and Lot 9 are not planned to enter the road at right angles because of topographic conditions.

7.9 Non-combustible roof material, including, but not limited to, tile, asphalt, or metal roof material, or Class B Certi-Guard (registered brand name) Red Label shakes and shingles, or other roof material utilizing Class B construction techniques ( $\frac{1}{2}$ " minimum solid sheathing) or better, shall be required for all structures on Lots 1 through 14, and PMH Lots 1, 2, and 3 of the Subdivision.

7.10 Lot Owners shall be required to keep all roofs clear of debris.

7.11 Lot Owners shall be required to remove tree branches hanging within fifteen feet (15') of chimneys.

7.12 Lot Owners shall be required to keep weeds and debris at least ten feet (10') away from the base of the residences.

7.13 Lot Owners shall be prohibited from parking any motor vehicle in tall dry grass.

7.14 Lot Owners shall be required to stack firewood on a contour away from buildings, and to keep fire fuels away from stacked wood.

7.15 Lot Owners shall be required to maintain at least one (1) ten-pound ABC-class fire extinguisher in the home.

7.16 All new power and telephone lines shall be installed underground.

7.17 North Hayden Road (between Castle Creek Road and the driveway to Lot 2, Feinsinger Lot Split) and South Hayden Road (between Castle Creek Road and the driveway to Lot 11) shall be built with a chip-and-seal driving surface with a minimum width of sixteen feet (16'), and two foot (2') chip-and-sealed shoulders on each side of the road. The remaining segments of the three (3) Subdivision roads may be built to driveway standards with a chip-and-sealed driving surface with a minimum width of twelve feet (12'), and two foot (2') chip-and-sealed shoulders on each side of the road.

7.18 The southern Building Envelope on Lot 13 has been modified to eliminate the portion of the Envelope which includes mature conifers constituting high wildfire hazard.

8. Wildlife Enhancement Measures. The following wildlife enhancement measures shall be adhered to:



8.1 All fencing associated with the Subdivision shall be limited to forty-two inches (42") in height. Permitted exceptions include tennis courts within Building Envelopes, or horse corrals (limited to one [1] acre in size) within Building, Accessory Building, or Fencing Envelopes on those Lots where horses are permitted. With the exception of tennis courts and corrals, the design of fencing shall be such that movement of wild ungulates will not be restricted or endangered.

8.2 All fencing, other than tennis court and corral fencing, and screen fencing around the residential dwelling units, shall have a twelve inch (12") kick space between the upper two (2) rails. Fencing may be four (4) rails or less, smooth rail or split rail, or other fencing approved by the Colorado Division of Wildlife and the Homeowners' Association.

8.3 The keeping of horses shall be prohibited on Lots 4, 6, and 14, and the PMH Lots.

8.4 Dogs shall be kenneled or on a leash at all times, or an invisible fence shall be installed at the perimeter of the Building or Accessory Building Envelope for each Lot on which dogs are to be kept. Either kennels or invisible fences shall be constructed prior to issuance of a certificate of occupancy.

8.5 All areas where surface disturbance takes place in conjunction with construction shall be reshaped, smoothed, and seeded with native grasses and forbs, as soon as practical.

8.6 At the perimeter of open park or savanna areas, small clump plantings of Colorado spruce seedlings shall be planted to provide a visual barrier between these areas and developed areas or roadways (to enhance habitat).

8.7 At least fifty percent (50%) of the large standing dead trees within the Subdivision which are not in a hazardous location will be left standing to provide important habitat for cavity-nesting wildlife species, and to serve as perches for raptorial bird species.

8.8 The use of off-road recreation type vehicles will be restricted to the roadways in the development.

8.9 All earth work associated with the Castle Creek Valley Ranch development and/or construction shall avoid erosion that might degrade Castle Creek water quality.

8.10 Trash storage structures shall be carefully designed at individual residences to prevent wildlife/resident conflicts. All food trash storage will be required to be kept within the residences until scheduled dates of pickup, to avoid attracting wildlife.

8.11 Artificial bird nesting boxes shall be used in the project area to encourage certain passerine bird species to use the area.

8.12 The Association shall have the right to regulate or prohibit excessively noisy motorized vehicles within the Subdivision.

9. Underground Utility Lines. With respect to the new construction of any improvements within the Subdivision or the extension of any utilities, all water, electrical, telephone, natural gas, and other utility pipes or lines within the limits of the Subdivision, shall be buried underground and not be carried on overhead poles or above the surface of the ground. All utilities shall be buried in or adjacent to the driveways servicing each Lot, or within utility easements designated on the Plat. Areas disturbed by the burying of utility lines shall be revegetated by and at the expense of the Lot Owner or Lot Owners causing the disturbance, and shall be accomplished no later than the next growing season following installation.

10. Dust Control. The Association shall be responsible for ongoing dust control of access roads (but not driveways) in the Subdivision. Individual Lot Owners shall be responsible for ongoing dust control of their private driveways. All roads and driveways within the Subdivision shall be monitored by the Association to insure minimal dust pollution. Unpaved roads and driveways shall be treated as necessary with magnesium chloride or other dust suppressants approved by the Pitkin County Environmental Health Department. The Association shall have the right to treat private driveways and charge the Lot Owner, if the Lot Owner fails to fulfill his responsibility for his individual dust control.

11. Weed Control. The Association shall be responsible to implement and follow a program of noxious weed control within the Subdivision, and along Castle Creek Road where the road borders the Subdivision. The Association agrees to join a weed control district, if one is created for the Castle Creek Area.

12. Service Yards and Trash. All equipment, service yards, or storage piles on any Lots shall be enclosed within a solid covered structure, or be kept screened by adequate planting or fencing within the Building Envelope so as to conceal them from the view of neighboring Lots and roads. All rubbish and trash shall be removed from all Lots, and shall not be allowed to accumulate, and shall not be burned thereon, except as may be necessary for maintenance and preservation of agricultural operations, including the irrigation system, in the Subdivision.

13. No Mining, Drilling or Quarrying. Mining, quarrying, tunnelling, excavating, or drilling for any other substances within the earth, including oil, gas, minerals, gravel, sand,

rock and earth, shall not be permitted within the limits of the Subdivision.

14. Resolution of Board of County Commissioners -- Subdivision Improvements Agreement. All Lot Owners shall adhere to the requirements set forth by the Pitkin County Board of Commissioners in granting subdivision approval to the Subdivision as set forth in Resolution 91-124 in Book 637 at Page 47; Detailed Submission Resolution 92-174 in Book 602 at Page 730; Final Plat Resolution 92-57 in Book 709 at Page 710; and the Subdivision Improvements Agreement between Declarant and the Pitkin County Board of Commissioners in Book 709 at Page 766 in the Recorder's Office, and any duly enacted amendments thereto which may be made. Where a conflict exists in the language of the various Resolutions, the language of the later Resolution shall control.

ARTICLE XII  
RESTRICTIONS ON LOTS

1. Number and Location of Buildings. No buildings or uses shall be placed, erected, altered, or permitted to remain on any portion of the Subdivision, except as approved by the Architectural Committee and in compliance with the Pitkin County Zoning and Building Codes.

1.2 In order to establish a basis for calculating Lot area in the event that a Floor Area Ratio is adopted in the future for the zone district which applies to the Subdivision, the Lot area of the sixteen (16) Lots which are presently within the AF-1 zone district shall be increased by a proportionate percentage of the acreage of the common areas within the Subdivision (Common Area total, exclusive of roads, is 111.75 acres), based on the actual size of each Lot, as follows:

Lot #	Actual Lot Area (Acres) (Excluding PMH Lots)	Factor to Be Applied to Common Area (%)	Proportionate Share of Common Area to Be Added (Acres)	Lot Area to Be Used to Calculate Allowed Floor Area (Acres)
1	14.92	6.813	7.61	22.53
2	13.16	6.009	6.72	19.88
3	8.36	3.817	4.27	12.63
4	5.34	2.438	2.72	8.06
5	10.66	4.868	5.44	16.10
6	10.83	4.945	5.53	16.36
7	23.70*	10.822	12.09	35.79
8	19.13	8.735	9.76	28.89
9	8.55	3.904	4.36	12.91
10	11.79	5.384	6.02	17.81
11	10.45	4.772	5.33	15.78
12	10.08	4.603	5.14	15.22
13	10.14	4.630	5.17	15.31

14	3.15	1.438	1.61	4.76
15	37.31	17.037	19.04	56.35
16	21.43	9.785	10.94	32.37
Roads in Common Area:				10.58
Total:	219.00	100.000%	111.75	341.33
	Acres*		Acres	Acres*

\* As required under the terms of BOCC Resolution No. 92-373, 1.1 acres added to Lot 7 as a result of Lot Line Adjustment Number Two, between Lot 1, Cattleman's Association Subdivision, and Lot 1, Feinsinger Lot Split, has been excluded from these Lot area calculations.

1.3 In order to establish a basis for determining the applicable County review procedure to be used in the future for proposed caretaker units, the Lot area of the sixteen (16) Lots within the AF-1 zone district shall be considered to be 21.15 acres.

2. Completion of Construction. Any exterior construction activity within the Subdivision shall be completed and fully cleaned up within eighteen (18) months from its commencement, or a variance shall be obtained from the Architectural Committee to allow for a longer period of construction upon proof of due diligence. The Association shall have the right to enter the Lot and complete the unfinished exterior improvements, and fine the Lot Owner for all costs associated with completing those improvements, which fine and any reasonable cost of collecting the fine shall be lienable against such Owner's Lot.

3. Fireplaces/Woodburning Stoves. All homes in the Subdivision shall comply with the fireplace regulations and woodburning stove regulations of Pitkin County in effect at the time of issuance of a building permit, and the following commitments:

3.1 The Declarant shall cause to be extended natural gas service to the new Lots on the west side of Castle Creek Road, if available. The four (4) PMH Lots are restricted to gas appliances, if any. In the event that natural gas service is not extended to PMH Lot 4, the Lot Owner of that Lot shall be required to install propane as a fuel source for any gas appliances on PMH Lot 4.

3.2 The Declarant shall offer a \$5,000.00 discount on the sale price of Lots 1 through 13 to any Lot purchaser who commits by deed restriction to the use of gas appliances for fireplaces, rather than the allowed woodburning devices. The discount shall not be available in the event that woodburning devices are prohibited in the Subdivision by Pitkin County regulations.

4. Driveways. Driveway design, location, surfacing material, and construction methods, including, without limitation, application of an approved dust suppressant, shall be approved by the Architectural Committee. The design and construction of driveways shall comply with the Pitkin County Road Standards and Specifications governing driveways. Driveways shall be paved or treated with an approved dust suppressant by the Lot Owner or the Association, as necessary, and maintained in good repair, as provided herein. An approximate alignment for the driveway serving each Lot has been shown on the Final Plat. Lot Owners may relocate driveways within individual Lots, subject to review of driveway alignments by the Architectural Committee for visual impact on neighboring Lots, and review by the Planning Office to determine whether the new alignment is within any 1041 hazard area. If 1041 hazards exist in the area, 1041 Review and approval shall be required prior to relocation of a driveway.

5. Trees and Landscaping. There shall be no cutting or altering of live trees, bushes, or natural vegetation outside of the Building Envelopes without Architectural Committee approval, and County approval when required under County regulations.

6. Used or Temporary Structures. No used, previously erected, or temporary house, structure, mobile home trailer, or nonpermanent outbuilding shall ever be placed, erected, or allowed to remain on any Lot, except during construction periods, and no dwelling unit shall be occupied in any manner prior to its completion. No motorhomes, boats, or trailers shall be parked or stored on any Lot for more than thirty (30) days out of any calendar year, unless such is stored in an enclosed garage or other allowed and approved storage building.

7. Fences. All fences erected within the Subdivision shall be in harmony with the development and the natural setting of the Subdivision. No fences may be erected unless the written approval of the Architectural Committee has first been obtained. Fencing outside of the designated Building Envelopes and Accessory Building Envelopes will not be allowed, unless a fencing envelope has been designated for the Lot on the Final Plat. To facilitate wildlife movement throughout the Subdivision, fencing shall comply with the Division of Wildlife standards for wildlife fencing, except for corrals as permitted in these Protective Covenants, and shall not restrict movement of ungulates as specified in Article XI, Paragraph 8, hereinabove.

8. Drainage Control. Each Lot Owner shall construct culverts where driveways cross road ditches, irrigation ditches, and other drainage ways, as required by the Architectural Committee. The minimum size of any culvert, and the construction methods utilized in installing any culvert, shall be approved by the Architectural Committee.

9. Road Damage. Each Lot Owner is responsible for any damage caused to the Subdivision roads during the construction of improvements upon his property, or damage caused at any other time, by any vehicle belonging either to him or any one using the roads of the Subdivision while engaged in any activity benefiting the Lot Owner. Furthermore, each Lot Owner shall also be responsible for any damage caused by utility cuts in roads, washouts, and runoff damage caused by failure to install culverts properly, and in a timely manner as provided in Paragraph 8 above. The Association and/or the Architectural Committee shall have the right to require each Lot Owner, during construction on the Owner's Lot, to post a bond or letter of credit of a reasonable amount to cover the cost of repairing road damage resulting from construction on said Lot. When the chip-and-sealing of the Subdivision roads has been completed, each Lot Owner (or the Association, if it authorizes work) will be responsible for the costs to repair any damage done to the roads, including the chip-and-sealing, by the Lot Owner's household, guests, contractors, agents, or invitees. Once the Declarant chip-and-seals the road, it will be the Association's responsibility to maintain and repair the road, and to enforce damage control for the road.

10. Enclosure of Unsightly Facilities and Equipment. All unsightly structures, facilities, equipment, and other items, including, but not limited to those specified below, on any Lot and within the Building Envelope, shall be enclosed within a solid, covered structure, or screened from view. Any truck, tractor, snow removal, or garden equipment, and any similar items, on any Lot and within the Building Envelope, shall be kept at all times, except when in actual use, in an enclosed garage. Motor homes, trailers, and boats must be kept in enclosed garages, or stored in an area that is completely invisible from any Lot in the Subdivision, or from any Subdivision road. Any refuse or trash container, utility meter, or other utility facility, gas, oil, or water tank, satellite receiving dish for television or other signals, service area, storage pile, or area for hanging clothing or other household fabrics, on any Lot and within the Building Envelope, shall be enclosed or appropriately screened from view by planting or fencing approved by the Architectural Committee, and adequate to conceal the same from neighbors, streets, private roads, and access drives. No lumber, metals, bulk materials, scrap, refuse, or trash shall be kept, stored, or allowed to accumulate, on any Lot and within the Building Envelope, except building materials during the course of construction, and only for such reasonable periods of time as is necessary prior to the collection of or disposal thereof.

11. Noxious or Offensive Activities. No noxious or offensive activity shall be carried on upon any portion of the Subdivision at any time, nor shall anything be done or permitted which may be or become a nuisance to other property or to the Lot Owners thereof.

12. Firearms. The discharge or shooting of firearms is prohibited in the Subdivision, except as may be permitted by rules and regulations promulgated by the Executive Board of the Association.

13. Geology. All construction shall comply with the recommendations of Geologist, Nicholas Lampiris, as set forth in his letter, dated May 21, 1989, and made a part of the Subdivision Improvements Agreement with Pitkin County, Colorado.

14. Energy. Construction on all Lots shall comply with the energy efficiency representations of Declarant, as the applicant in the Growth Management Plan Applications submitted to Pitkin County, Colorado, and subsequently amended:

14.1 Insulation. Thermal resistance values of the building shall exceed criteria mandated by the Energy Code Amendment to the Uniform Building Code. Exterior surfaces of all heated spaces shall conform to the following minimum specifications for composite cross-sections:

Walls (above grade)	R-27
Walls (below grade)	R-15
Roof	R-40
Slab-on-grade	R-15 to 2 ft. depth below grade
Floors (over unheated spaces)	R-27

(Alternatively, crawl space walls may be insulated with R-11 to footing.)

14.2 Glazing and Passive Solar Design. All habitable buildings shall be placed and oriented on the site in a manner which will maximize use of the solar access available at each site.

14.3 Infiltration.

(a) All penetrations of exterior and interior walls, roof, and floor shall be sealed with expanding foam prior to installation of insulation and interior wall coverings. All door and window openings shall be sealed, insulated, and weather stripped. Electrical outlets shall be sealed and insulated. Air-lock entryways shall be provided at the principal exterior entry to each residence. Lot Owners shall have the option of not providing an air-lock entryway; provided, however, that they demonstrate to the satisfaction of the Pitkin County Building Department that additional energy conservation measures will be provided, beyond those specified in this Paragraph 14, to equal the energy loss resulting from not providing an air-lock.

(b) In lieu of the above prescriptive standards for insulation and glazing, an overall thermal performance criterion may be complied with. The thermal performance criterion is a design heat loss no greater than 18 BTU/hr/sq.ft. of heated floor space when calculated for a design temperature of -15° F.

14.4 Lighting. Lighting systems shall utilize state-of-the-art compact fluorescent and incandescent products. All exterior lights shall be operated by photocell or timer control.

14.5 Mechanical. All space heating and domestic water heating equipment shall be rated with AFUE efficiencies of ninety percent (90%) or greater. All heating distribution ductwork and piping in unheated spaces shall be insulated to a minimum of:

Duct insulation	R-8
Pipe insulation	R-3.7
Insulation on recirculation hot water pipes	R-6

Programmable set-back thermostats shall be used for each heating zone. Outdoor swimming pools and hot tubs, if any, will be provided with insulating covers.

14.6 Water Conservation. Efficiency in water use shall be achieved by utilizing water-efficient landscape materials, shower heads, faucet aerators, and flush toilets. Maximum flow criteria for water-using appliances are as follows:

Shower heads	2.5 gpm
Faucet aerators	2.5 gpm
Toilets	3.5 gallons per flush

14.7 Natural Gas Service. Natural gas service shall be provided to each site to the west of Castle Creek Road, if available.

15. Radon Gas. Each individual Lot Owner shall be responsible to check for radon gas which may exist on their Lot.

16. Vehicle Prohibition. Motorcycles not suitable for and not licensed for highway use, and motorized dirt bikes shall not be operated in the Subdivision. No snowmobiles shall be operated in the Subdivision, except that the Owners of Lots 8 through 13 may use snowmobiles on South Hayden Road and the Common Area for access to the Highlands Ski Area lifts.

### ARTICLE XIII EASEMENTS RESERVED

1. Easements Described on Plat. The lands within the Subdivision are subject to any and all easements described on the Plat.

2. Utility Easements Reserved. There are hereby created and reserved perpetual easements as shown on the Plat, for the purpose of constructing, maintaining, operating, replacing, enlarging, and repairing electric, telephone, water, irrigation,



sewer, gas, cable television and similar lines, pipes, wires, ditches, and conduits. Declarant reserves the right to locate these easements, or portions thereof, across any portions of the Common Area if such is deemed necessary for the most efficient and expeditious running of the utilities; provided, however, that in no event shall any such easement run through a Building Envelope, and in no event shall the easements inhibit or disturb the reasonable functioning or operation of the agricultural operation. With respect to the utilization of any easement on any Lot reserved hereunder, the easement shall be deemed an as-built easement at such time as any utilities are constructed pursuant to these easements reserved; and, the easements reserved hereunder shall be deemed located ten feet (10') on either side of each utility line as-built, and the remainder of the Lot shall thereafter be unburdened by this reservation.

3. Fishing Easement Reserved. That area designated as the Fishing Easement on the Plat shall be reserved for the use and benefit of the general public.

4. Access and Utility Easements Reserved. Those areas designated as "Access and Utility Easement" on the Plat shall be reserved for motorized access to the Subdivision, for private non-motorized trails, and for construction and maintenance of utility lines therein.

5. Well and Water Delivery and Drainage Easements Reserved. Those areas designated as Well and Water Delivery Easements on the Plat shall be reserved for the construction and maintenance of well and water delivery systems.

6. Fence Licenses Within Easements. No fence which is allowed by these Covenants, and which is allowed by the Architectural Committee, or other improvement, shall ever be placed in any of the easements created and reserved under any paragraph of this Article XIII, unless prior written authorization therefore shall be obtained from the Architectural Committee. Any such authorization shall be deemed to be a revocable license, and the Lot Owner or Lot Owners of the Lot upon which said fence is constructed shall promptly remove the same at their expense upon request of the Architectural Committee. Damage to any such fence occasioned by construction, maintenance, and/or repair of any service or system shall be repaired by the Owner or Owners of the Lot at their sole expense.

7. Ownership of Easements. All easements and rights created and reserved in this Article XIII shall be and remain vested in Declarant until not later than the date Declarant shall have sold all of the Lots, at which time Declarant shall execute and deliver an instrument, in writing, transferring the same or a part thereof to the utility company or other entity requiring the easement, or to the Association, as the context may require. Upon any such transfer, Declarant shall be relieved from all continuing responsibilities therefor.

ARTICLE XIV  
ACCESS EASEMENTS  
DRIVEWAYS AND EMERGENCY ACCESS

1. Ownership of Access Easements. The title in fee to all lands platted as the Access Easements, known as North Hayden Road, South Hayden Road, and Loge's Spring Road, as shown on the Plat, shall be and remain vested in Declarant until not later than the date Declarant shall have sold all of the Lots, at which time Declarant shall execute and deliver an instrument, in writing, transferring the same to the Association. At such time as Declarant makes such transfer, the Association will be responsible for all maintenance and responsibilities pertaining to the Roads, including the obligations contained in the Road Maintenance Agreement, dated March 21, 1990, the First Amendment thereto, dated August 24, 1992, and the Second Amendment to the Road Maintenance Agreement, dated September, 1992. Declarant and Association shall not, without the consent of all Lot Owners, make such Roads or Access Easements public.

2. Grant of Private Access Easements. Declarant hereby conveys to the Association, for the private use of the Owners of the Lots being served thereby in the Subdivision, a nonexclusive easement over and across the private access easements known as North Hayden Road, South Hayden Road, and Loge's Spring Road on the Plat. From and after the time Declarant completes construction of North Hayden Road, South Hayden Road, and Loge's Spring Road, and transfers title to the Association, the Association shall be responsible to accomplish and pay for all maintenance and upkeep of North Hayden Road, South Hayden Road, and Loge's Spring Road.

3. Maintenance of Private Access Easements. Any damage to a private access easement shall be assessed against the Lot Owner who caused the damage, or whose agents caused the damage. The Lot Owner's obligation to repair damage to a private access easement exists if the Declarant owns the private access easement, or if the private access easement has been conveyed to the Association.

4. Maintenance of Driveways. All driveways constructed in the Subdivision shall be constructed and maintained at the expense of the Owner(s) whose Lot(s) is being served by a particular driveway. The Owner whose Lot is being served by a particular driveway shall be responsible for ongoing dust control of unpaved private driveways, and shall treat such driveways as necessary with magnesium chloride or other dust suppressants approved by the Pitkin County Environmental Health Department.

5. Emergency Access Easement. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing the Subdivision and its residents, to enter upon all private roads and driveways located in the Subdivision, and on any property in the Subdivision, in

the lawful performance of their duties.

6. Reservation of Right to Grant Access Easement. Even though the three (3) roads within the Private Access and Utility Easements and the Common Area in the Subdivision will be conveyed to the Association, until the date of recordation of the deed for the sale of the eleventh (11th) Lot in the Subdivision, or two (2) years from the date hereof, whichever date is later, Declarant reserves the right, in its sole discretion, to grant and convey (upon terms, price, and conditions solely acceptable to the Declarant, with any remuneration to be to the sole benefit of the Declarant) to Aspen Highlands Skiing Corporation, or any successor in interest to said entity, a permanent non-exclusive access easement over and across any or all of the roads and Common Area within the Subdivision to access new ski terrain and lifts to be developed by Aspen Highlands above the Subdivision, for the following purposes: emergency purposes, such as evacuation of skiers from the ski lifts, and removal of injured skiers from the mountain. An access easement for construction, maintenance, repair, survey, and planning purposes may be granted along South Hayden Road and the Common Area contiguous to the Private Access and Utility Easement for South Hayden Road. Any such grant of a permanent access easement will not in any way grant to the public at large the right to use Subdivision roads for skiing purposes. Except as expressly provided for in these Covenants, Declarant and/or Association shall not grant any additional easements, access, or user rights over Subdivision Roads, Easements, or Common Area without the prior written consent of the Owners of twelve (12) of the thirteen (13) free-market Lots.

#### ARTICLE XV

#### PMH RESTRICTIONS FOR THE BENEFIT OF PITKIN COUNTY

The PMH Units shall be governed by Category 3 or Category 4 price guidelines (as determined by Pitkin County) annually adopted by the Board of County Commissioners, and in effect at the time of issuance of each of the building permits for PMH Lots 1 through 3 of the Subdivision, and shall be occupied by qualified individuals under the Pitkin County Housing Authority Category 3 or Category 4 guidelines. The Owner of PMH Lot 4 shall construct a rental employee unit on PMH Lot 4 for a ranch manager or employee of the Owner of Lot 4. The Unit shall be rented under the Category 3 Price Guidelines annually adopted by Pitkin County.

#### ARTICLE XVI

#### COLLECTION OF ASSESSMENTS -- ENFORCEMENT

1. Assessments. Except as may be otherwise provided by these Covenants, all Lot Owners shall be obligated to pay any assessments lawfully imposed by the Executive Board of the Association. Declarant shall be required to pay assessments to the Association attributable to any Lot owned by it. To the extent the Association is responsible therefor, assessments may

be lawfully imposed for any items of common expense which may include, among other things: expenses for maintaining, improving, and snowplowing the private access easements known as North Hayden Road, South Hayden Road, and Loge's Spring Road.

The maintenance and care of North Hayden Road shall be assessed against the Owners of Lots 1 through 7. The maintenance and care of Loge's Spring Road shall be assessed against the Owners of Lot 14 and PMH Lots 1 through 3. The maintenance and care of South Hayden Road shall be assessed against the Owners of Lots 8 through 13. Expenses of the Common Area shall be assessed against the Owners of Lots 1 through 14 only. Expenses of implementing and maintaining a security system for the residents of the Subdivision, and expenses of the Architectural Committee, shall be assessed exclusively against Owners of Lots 1 through 13. Expenses for dog control and fire protection shall be assessed against Owners of Lots 1 through 13, PMH Lots 1 through 3, and Lot 14, and, any other reasonable costs and expenses incurred by the Association in pursuit of its purposes. The Executive Board may establish contingency and reserve funds for the maintenance and improvement of the private access easements, and any other anticipated costs and expenses of the Association to be incurred in pursuit of its purposes. Contingency and reserve funds shall only be assessed against the Owners of Lots 1 through 13, and Lot 14, where applicable, in such an amount as the Executive Board may deem necessary and appropriate for the aforesaid purposes, and each Lot Owner shall be required to pay his pro rata portion of these funds. Since the Owners of PMH Lots 1 through 3 are not paying for the assessments for the Common Area and maintenance of the private access easements, other than for Loge's Spring Road, they shall have no use of the Common Area or other roads. As used herein, a Lot Owner's pro rata portion of common expense shall mean either one-thirteenth ( $1/13$ ), or one-fourteenth ( $1/14$ ), where applicable, with respect to Free-Market Lots and the Resident-Occupied Lot, based on there being thirteen (13) paying Free-Market Lots in the Subdivision, and one (1) paying Resident-Occupied Lot, and one-quarter ( $1/4$ ) with respect to PMH Lots and Lot 14, except with respect to assessments for maintaining the well and water system and utility services for PMH Lots 1 through 3, which shall be assessed only against PMH Lots 1 through 3. The Executive Board shall have the right during any calendar year to levy and assess against all or a portion of the Lot Owners a special assessment for such purpose or purposes, in accordance with these Covenants, or the articles or bylaws of the Association, as may be necessary. Such special assessment shall be paid for in equal portions by the Lot Owners benefitting and therefore obligated to pay such assessments, and shall be due and payable as determined by the Executive Board. The Class "B" membership reserved to Declarant shall not have any obligation to pay assessments.

2. Lien for Non-Payment of Assessments or Fines.

(a) All sums assessed by the Executive Board including, without limitation, the share of common expense

assessments chargeable to any Lot Owner, any fines which may be levied against a Lot Owner, and unpaid water service fees and assessments charged to a Lot Owner, shall constitute a lien against such Lot superior (prior) to all other liens and encumbrances, excepting only: (i) tax and special assessment liens on the Lots in favor of any governmental assessing unit; (ii) liens and encumbrances recorded before the recordation of these Covenants; and, (iii) a security interest on the Lot which has priority over all other security interests on the Lot, and which was recorded before the date on which the assessment sought to be enforced became delinquent.

(b) A lien under this Article XVI, Paragraph 2, Subparagraph (a), is also prior to the security interests described in Subparagraph (a)(iii) of this Paragraph 2 to the extent of: (i) an amount equal to the common expense assessments based on a periodic budget adopted by the Association under the Bylaws which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution of an action to enforce the lien, but in no event shall the priority accorded under this Paragraph 2 to such lien exceed one hundred fifty percent (150%) of the average monthly assessment during the immediately preceding fiscal year multiplied by six (6); and, (ii) attorneys' fees and costs being incurred in an action to enforce the lien.

(c) This Paragraph 2 does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the Association. A lien under this Paragraph 2 is not subject to the provisions of Part 2 of Article 41 of the Colorado Revised Statutes ("C.R.S."), or to the provisions of section 15-11-201, C.R.S.

(d) Recording of these Covenants constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this Paragraph 2 is required.

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

(f) This Paragraph 2 does not prohibit actions or suits to recover sums for which Subparagraph (b) of this Paragraph 2 creates a lien, or to prohibit the Association from taking a deed in lieu of foreclosure.

(g) The Association shall be entitled to costs and reasonable attorneys' fees incurred by the Association in a judgment or decree in any action or suit brought by the Association under this Paragraph 2.

(h) If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

(i) If any assessment shall remain unpaid after twenty (20) days after the due date thereof, such unpaid sums shall bear interest from and after the due date thereof at the maximum rate of eighteen percent (18%) per annum, or at such rate as is determined by the Executive Board (not to exceed twenty-one percent [21%] per annum), and the Executive Board may impose a late charge on such defaulting Lot Owner in an amount of One

Hundred Fifty Dollars (\$150.00) to cover the extra costs and expenses involved in handling such delinquent assessments. This fee may be modified by the Executive Board as they deem appropriate. In addition, the Executive Board shall be entitled to collect reasonable attorneys' fees incurred in connection with any demands for payment and/or collection of delinquent assessments. Such lien may be enforced by foreclosure of the defaulting Owner's Lot by the Association in like manner as a mortgage on real property, upon the recording of a notice of claim thereof. In any such foreclosure, the Lot Owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien, and all reasonable attorneys' fees. The Lot Owner shall also be required to pay to the Association any additional assessments against the Lot during the period of foreclosure, and the Association shall be entitled to the appointment of a receiver to collect the same. The Executive Board for the Association shall have the power to bid on the Lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. The Association, at its election, and in addition to any other remedies it may have at law or in equity, may also sue a Lot Owner personally to collect any monies owed the Association.

(j) Each Lot Owner hereby agrees that the Association's lien on a Lot for assessments, as hereinbefore described, shall be superior to the Homestead Exemption provided by C.R.S. §38-41-201, et seq. (1973, as amended), and each Lot Owner hereby agrees that the acceptance of the deed or other instrument of conveyance in regard to any Lot within the Subdivision shall signify such grantee's waiver of the homestead right granted in said section of the Colorado statutes.

(k) Any recorded lien for non-payment of the common expenses may be released by recording a release of lien executed by a member of the Executive Board authorized to act on behalf of the Board.

3. Penalties for Failure to Pay Assessments When Due. No delinquent Lot Owner shall be entitled to vote on any Association matters until the assessments due to the Association are paid in full, together with interest and accrued collection costs. In the event assessments are delinquent for more than six (6) months, the Association shall have the right to temporarily cut off any and all Association services or benefits to such delinquent Lot Owner until all assessments due, plus interest and accrued collection costs, are paid in full.

4. Enforcement Actions. The Association, acting by and through its Executive Board, shall have the right to prosecute any action to enforce the provisions of all of these Covenants by injunctive relief, on behalf of itself, and all or part of the Owners of the lands within the Subdivision. In addition, each Owner of land within the Subdivision, including the Association, shall have the right to prosecute any action for injunctive relief and for damages by reason of any violation of these Covenants. Declarant independently, for so long as it retains

any of the rights granted, retained, or reserved to it hereunder, shall have the right to prosecute any action for injunctive relief and for damages against any Lot Owner or the Association by reason of any violation of these Covenants. The prevailing party in any enforcement action shall be entitled to an award of its reasonable costs and attorney's fees.

5. Limitations on Actions. In the event any construction, alteration, or landscaping work is commenced upon any of the lands in the Subdivision in violation of these Covenants, and no action is commenced within two hundred seventy (270) days thereafter to restrain such violation, then injunctive or equitable relief shall be denied, but an action for damages shall still be available to any party aggrieved. This 270-day limitation shall not apply to injunctive or equitable relief against other violations of these Covenants.

6. Fines. In addition to the enforcement actions provided for above, the Executive Board shall have the right, after affording notice and an opportunity to be heard to a Lot Owner, to fine the Lot Owner, in a reasonable amount, for any violations of these Covenants. The fine may be assessed as a lump sum, or on a per diem basis for the number of days that a Lot Owner is in violation of the Covenants. Any such amounts that a Lot Owner is fined shall be deemed a lien against such Owner's Lot, and may be collected and foreclosed on in the same manner as is provided above for the collection of common expense assessments.

## ARTICLE XVII GENERAL PROVISIONS

1. Covenants to Run. All of the Covenants contained in this instrument shall be a burden on the title to all of the lands in the Subdivision, and the benefits thereof shall inure to the Owners of the lands in the Subdivision, and the benefits and burdens of all said Covenants shall run with the title to all of the lands in the Subdivision.

2. Additional Lands or Lots of the Subdivision. In the event additional lands or Lots are added to the Subdivision by the filing of additional plats in the records of the Recorder's Office, such recordation shall operate to expand these covenants to govern such additional lands and Lots; provided, however, that, at the time of recordation of such plat, the Owners of all the Lots in the Subdivision execute and record an appropriate amendment to these Covenants; and, provided, however, that the expansion of the Subdivision shall not occur later than ten (10) years after the recording of these Covenants, and all such added lands and Lots are contiguous to the Subdivision.

3. Access to South Hayden Road. The Managing Partner of Castle Creek Valley Ranch Partnership, Phil Holstein, reserves the right to grant a perpetual easement to utilize South Hayden Road and the utility easement extending south from the cul-de-sac

on South Hayden Road along the west boundary of Lot 13 to the end of the Subdivision for his own use and for perpetual access to the purchasers, Lot Owners, or tenants of two (2) additional single-family Lots located on the south side of the Subdivision. This right is reserved to Phil Holstein for a period of twenty-five (25) years after the date that these Covenants are recorded. The Owners of the two (2) single-family Lots on the south side of the Subdivision shall be required to pay their proportionate share of the expenses of maintaining South Hayden Road.

4. Rule Against Perpetuities. If any of the terms, covenants, conditions, easements, restrictions, uses, limitations, or obligations created by these Covenants shall be unlawful or void for violation of: (i) the rule against perpetuities, or some analogous statutory provision; (ii) the rule restricting restraints on alienation; or, (iii) any other statutory or common law rules imposing like or similar time limits, such provision shall continue only for the period of the life of Philip M. Holstein, Jr., his now living descendants, and the survivor of them, plus twenty-one (21) years.

5. Termination of Covenants. In the event these Covenants have not been sooner lawfully terminated pursuant to any applicable laws of the State of Colorado and Pitkin County, Colorado, and the provisions herein contained, these Covenants may be terminated on January 1, of the year 2011, by a vote of sixty-seven percent (67%) of the votes entitled to be cast by the Lot Owners subject to Paragraph 7 below. If these Covenants are not so terminated, then they shall continue to be in full force and effect for successive twenty-one (21) year periods unless, at the close of a twenty-one (21) year period, the Covenants are terminated by a vote of sixty-seven percent (67%) of the votes entitled to be cast by the Lot Owners at a meeting of the Lot Owners duly held. In the event of any such termination by the Lot Owners, a properly certified copy of the resolution of termination shall be placed on record in the Recorder's Office, not more than six (6) months after the meeting at which such vote is cast. The resolution of termination shall specify a date after which it will be void unless it is recorded before that date.

6. Amendment of Covenants. Subject to Paragraph 11 below these Covenants may be amended by a vote of sixty-seven percent (67%) of the votes entitled to be cast by the Lot Owners, said vote to be cast at a meeting of the Lot Owners duly held; provided, however, that a properly certified copy of the resolution of amendment be placed on record in Pitkin County, Colorado, to make the amendment effective; and, PROVIDED, HOWEVER, that no amendment shall be permitted which is inconsistent with any of the rights granted, retained, or reserved to Declarant hereunder, or which attempts to enlarge or expand any obligation of Declarant hereunder, unless such is consented to in writing by Declarant. The amendment is effective only upon recordation of the resolution of amendment, and it must be prepared, executed, certified, and recorded on behalf of the



Association designated for that purpose in the Bylaws, or by the President, if no designation has been made. It will require one hundred percent (100%) of the voting Lots in the Subdivision to change the paying of assessments of the PMH Lots and Resident-Occupied Lot set forth in these Covenants, to change the boundaries of any Lot or the Common Area, or to alter the allocation of common expenses set forth in Article XVI, Paragraph 1, or to modify Article IX, Paragraph 1, Article XIV, Paragraphs 1 and 6, or this Article XVII, Paragraph 6.

7. Interpretation of Covenants. Except for judicial construction, Declarant shall, until the closing (i.e. recording of the deed) on the sale of the first eleven (11) Lots, have the exclusive right to construe and interpret the provisions of these Covenants. Thereafter, the exclusive right to construe and interpret these Covenants shall rest with the Association acting by and through its Board. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the construction or interpretation of the provisions hereof by Declarant, and thereafter the Association, shall be final, conclusive, and binding as to all persons and property benefitted or bound by these Covenants and the provisions hereof. The provisions of these Covenants shall be liberally construed to effectuate its purpose of creating a uniform plan for the development, operation, and maintenance of the Subdivision.

8. Provisions Incorporated in Deeds. Each provision contained in these Covenants shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any Lot is granted, devised, or conveyed, whether or not set forth or referred to in such deed or other instrument.

9. No Dedication. Unless expressly provided, nothing contained in these Covenants shall be deemed to be a gift or dedication of all or any part of the Subdivision to the public or for any public use.

10. Governing Law. The interpretation, enforcement, or any other matters relative to these Covenants shall be construed and determined in accordance with the laws of the State of Colorado.

11. Pitkin County Requirements. Notwithstanding anything herein contained to the contrary, any portion of these Covenants which were required to be contained herein by approvals obtained by Declarant from Pitkin County for Subdivision (including obligations of the Conservation Easement) may not be amended or terminated without the consent of Pitkin County Board of County Commissioners. All other provisions may be amended or terminated in accordance with Paragraphs 5 or 6, above, of this Article XVII.

12. Severability. Should any part or parts of these Covenants be declared invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining Covenants.

13. Paragraph Headings. The paragraph headings in this instrument are for convenience only, and shall not be construed to be a part of the Covenants contained herein.

14. Successors and Assigns of Declarant; Release of Rights. Any rights or responsibilities granted or retained by Declarant under these Covenants shall inure to and be binding on any successors in interest or assigns of Declarant, and any person or entity which accedes to the rights and obligations of Declarant with respect to the real property governed by these Covenants, including affiliates of the Declarant, as that term is defined in the Colorado Common Interest Ownership Act.

15. Disclaimer. No representations or warranties of any kind, express or implied, have been given or made by Declarant, or its agents or employees, in connection with the Subdivision or any portion thereof, or any improvements thereon, physical condition, zoning compliance with the applicable laws, fitness for intended use or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or other regulations hereof as a Planned Unit Development, except as expressly set forth in these Covenants and the Subdivision Improvement Agreement signed with Pitkin County, Colorado.

16. Limited Liability. The Association and the Board shall not be liable to any party for any action, or for any failure to act, except for wanton and willful acts or omissions. Any action alleging an act or omission by the Association must be brought against the Association, and not against any Lot Owner. The Association shall make a good faith effort to obtain insurance for errors and omissions, and other forms of liability insurance for officers and Board Members of the Association, in accordance with the requirements of the Colorado Common Interest Ownership Act.

17. Taxation. Each Lot constitutes for all purposes a separate parcel of real estate, and must be separately assessed and taxed. The Common Area shall not be separately taxed or assessed. Upon the filing for recording of these Covenants, the Declarant shall deliver a copy of such filing to the Assessor of Pitkin County, Colorado.

IN WITNESS WHEREOF, these Protective Covenants of Castle  
Creek Valley Ranch P.U.D./Subdivision have been executed this  
26 day of April, 1993.

**DECLARANT:**

CASTLE CREEK VALLEY RANCH PARTNERSHIP,  
a Colorado general partnership, by:  
HOLSTEIN INVESTMENT CORPORATION, a  
Colorado corporation, a General Partner

By Philip M. Holstein, Jr.  
Philip M. Holstein, Jr., President