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DECLARATION FOR IRON HORSE TOWNHOMES

THIS DECLARATION FOR IRON HORSE TOWNHOMES (Declaration) is made and declared this 15 day of MAY, 2006, by DARTER, LLC, a Colorado limited liability company (Declarant).

RECITALS:

A. Declarant is the owner of real property situated in Montrose County, Colorado known and described on the Plat attached hereto as Exhibit A and incorporated herein by this reference, hereinafter referred to as the "Property".

B. Declarant wish to create a townhome common interest community in accordance with the Colorado Common Interest Ownership Act, sections 38-33.3-101, et seq., C.R.S., as amended from time to time, and subject the Properties to the covenants, conditions and restrictions set forth below.

THEREFORE, Declarant states as follows:

ARTICLE I. DEFINITIONS

1.1 Act. "Act" shall mean and refer to the Colorado Common Interest Ownership Act, sections 38-33.3-101, et seq., C.R.S., as amended from time to time.

1.2 Allocated Interests. "Allocated Interests" shall mean and refer to the common expense liability and the ownership interest and votes in the Association as set forth in Sections 4.3.B and Article V of this Declaration.

1.3 Architectural Control Committee. "Architectural Control Committee" shall mean and refer to the Architectural Control Committee of the Association referred to in Section 4.6 of this Declaration.

1.4 Articles. "Articles" shall mean and refer to the Articles of Incorporation of Iron Horse Townhomes Association, Inc.

1.5 Association. "Association" shall mean and refer to Iron Horse Townhomes Association, Inc., a Colorado nonprofit corporation, and its successors and assigns.



1.6 Board. "Board" shall mean and refer to the Executive Board of the Association. The Board shall have the power to act in all instances on behalf of the Association in accordance with this Declaration, the Association's Articles of Incorporation and Bylaws, the Act and the Colorado Nonprofit Corporation Code.

1.7 Building. "Building" shall mean and refer to any buildings, including all fixtures and improvements thereto, situate on the Property containing any Unit.

1.8 Bylaws. "Bylaws" shall mean and refer to the Bylaws of the Association.

1.9 Colorado Common Interest Ownership Act. "Colorado Common Interest Ownership Act" shall mean and refer to Title 38, Article 33.3 of the Colorado Revised Statutes, as the same may exist on the date that these Covenants are recorded, and as the same may be amended from time to time hereafter, or any statute of similar effect.

1.10 Common Elements. "Common Elements" shall mean and refer to all of the Property except all Units. Common Elements shall be divided into two categories:

1.10.1 "General Common Elements" shall mean and refer to all Common Elements except all Limited Common Elements, and may be designated by abbreviation on the Townhome Map as "GCE", including but not limited to the condominium private street and all condominium drainage facilities.

1.10.2 "Limited Common Elements" shall mean and refer to those Common Elements designated or reserved in the Declaration or on the Townhome Map for the exclusive use by fewer than all of the Owners of Units, and may be designated by abbreviation on the Townhome Map as "LCE."

1.11 Common Interest Community. "Common Interest Community" shall mean and refer to the townhomes created by the Declaration and the Townhome Map.

1.12 Townhome Map. "Townhome Map" shall mean and refer to that part of the Declaration that depicts all or any portion of the Common Interest Community in three dimensions, meeting the requirements of a land survey plat as set forth in section 38-51-105, C.R.S., and further meeting the requirements of the Act, and shall include any supplements or amendments thereto. Without limitation on the foregoing, the Townhome Map shall locate and show the dimensions of the vertical and horizontal boundaries of each Unit, including each Unit's identifying number and the Common Elements, including designation of Common Elements.



1.13 Townhome Unit. "Townhome Unit" shall mean and refer to a Unit together with each Unit's undivided interest in the Common Elements vested in the Unit Owners as set forth in Section 3.5 below.

1.14 Declaration. "Declaration" shall mean and refer to this Declaration for IRON HORSE TOWNHOMES, and any supplements or amendments thereto. "Declaration" shall include all instruments that create the Common Interest Community, including, but not limited to, the Townhome Map.

1.15 Declarant. "Declarant" shall mean and refer to **Darter, LLC**, and entities affiliated with them, and any person or entity to whom the rights of the Declarant are assigned, transferred or conveyed.

1.16 Iron Horse Community. "Iron Horse Community" shall mean and refer to the Iron Horse Single Family Community and the Iron Horse Townhome Community.

1.17 Owner. "Owner" or "Unit Owner" shall mean and refer to any person or entity at any time owning a Townhome Unit, but does not include a person having an interest in a Townhome Unit solely as security for an obligation.

1.18 Mortgage. "Mortgage" shall mean and refer to any mortgage, deed of trust or other interest in a Townhome Unit held solely as security for an obligation.

1.19 Mortgagee. "Mortgagee" shall mean and refer to any person or entity named as the mortgagee or beneficiary under any mortgage, deed of trust, or other interest in a Townhome Unit held solely as security for an obligation.

1.20 Member. "Member" shall mean and refer to a person or entity which is a member of the Association.

1.21 Owner. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.22 Plat. "Plat" shall mean and refer to that certain plat of the Properties to be recorded in the Montrose County Clerk and Recorder's official records.

1.23 Property. "Property" shall mean and refer to the real property located in the City of Montrose, in Montrose County, Colorado described in Recital A above.



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1.24 Unit. "Unit" shall mean a physical portion of the Property designated for separate ownership and consisting of an individual air-space unit. Unless otherwise stated in this Declaration or depicted or shown on the Townhome Map, the boundaries of a Unit are the interior surfaces of the perimeter walls, floors, ceilings, windows and doors as shown on the Townhome Map; all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint and finish, flooring and any other materials constituting any part of the finished surfaces are part of the Unit, and all other portions of the walls, floors and ceilings are part of the Common Elements; all spaces, interior partitions and other fixtures and improvements within the boundaries of the Unit are part of the Unit; if any chute, flue, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the designated boundaries of the Unit, any portion thereof serving only that Unit shall be a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Element shall be a part of the Common Elements; and, any shutters, awnings, window-boxes, doorsteps, stoops, porches, balconies and patios and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries are Limited Common Elements allocated exclusively to that Unit.

1.25 Additional Definitions. All words hereinafter capitalized shall have the definitions assigned to such terms in this Declaration. Furthermore, all definitions and defined terms set forth in the Act are incorporated herein by this reference to the extent not consistent with the defined terms herein.

ARTICLE II. STATEMENT OF INTENT

2.1 Statement of Intent. Declarant intends that the Property shall be held, conveyed, devised, encumbered, used, occupied and improved as a Townhome Common Interest Community, subject to the covenants, conditions and restrictions set forth in this Declaration which shall run with the land and be binding upon and inure to the benefit of all persons, entities and parties having or acquiring any right, title or interest in or to the Property or any part thereof. Declarant further submits the Property to the provisions of the Act, as amended from time to time. In the event the Act is repealed, the Act as existing immediately prior to its repeal shall remain applicable to the Property. The terms of this Declaration shall govern and control any inconsistent or conflicting provision of the Act, except for mandatory provisions of the Act, which shall then govern.

2.2 Estate Subject to Declaration. By this Declaration, Declarant expressly intends and does hereby subject the Properties to the provisions of the Declaration. All easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be



covenants appurtenant to and running with the land, and shall at all times inure to the benefit of and be binding upon any person having at any time any interest or estate in the Properties, and their respective heirs, successors, representatives or assigns. Reference in any deed of conveyance, lease, mortgage, deed of trust, other evidence of obligation or any other instrument to the provisions of this Declaration shall be sufficient to create and reserve all of the easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges which are granted, created, reserved or declared herein as though fully and completely set forth in their entirety in any such document.

2.3 Uses. Declarant further intends that the Common Interest Community be owned, maintained and operated as a residential common interest community.

2.4 Owners' Rights to Common Interest Community. Subject to the limitations contained in this Declaration, each Owner shall have a non-exclusive right and easement with ingress and egress over, across and upon the Common Interest Community for the purpose of using and enjoying the same, getting to and from his Lot, parking Interest Community, and public ways for pedestrian and vehicular traffic, which right and easement shall be appurtenant to, and pass with the transfer of title to each Owner's Lot. Any Owner may delegate his right of enjoyment to the Common Interest Community and facilities for the occupants of his Lot, or guests or invitees. The Owner's non-exclusive right to the use of the Common Interest Community shall be subject to the following:

2.4.1 The covenants, conditions, restrictions, easements, reservations, rights-of-way, and all other provisions contained in this Declaration, Articles, Bylaws, Policies, Procedures, Rules and Regulations or as are set forth in The Replat;

2.4.2 The right of the Association to limit the number of guests or invitees of each Owner which may use any of the amenities on the Common Interest Community; and

2.4.3 The right of the Association to adopt, from time to time, rules and regulations regarding the reasonable use of the Common Area and any facilities located thereon as the Association may determine is necessary or prudent.

2.5 Recording Data. The recorded easements and licenses appurtenant to, or included in, the Iron Horse Townhomes, or to which any portion of Iron Horse Townhomes may become subject by virtue of a reservation herein will be found on the Plat to be recorded in the Montrose County Clerk and Recorder's Records. These easements include, but are not limited to, a temporary construction ingress and egress easement, irrigation water access easements, utility easements, shared driveway easements and multipurpose easements.

ARTICLE III. DESCRIPTION OF THE COMMON INTEREST COMMUNITY

3.1 Name. The name of the Common Interest Community is Iron Horse Townhomes. The name of the Association is Iron Horse Townhomes Association, Inc., a Colorado non-profit corporation.

3.2 Property. The Common Interest Community is situated wholly within the City of Montrose, in Montrose County, Colorado. The legal description of the real estate included in the Common Interest Community is set forth in Recital A above.

3.3 Number of Units. There are as of the date of this Declaration twenty-eight (28) units in the Common Interest Community.

3.4 Unit Identifying Numbers and Boundaries. Each Unit's identifying number shall be as set forth on the Townhome Map. The identification of each Unit's boundaries is shown on the Townhome Map.

3.5 Allocated Interest. Each Unit shall own an 3.57% appurtenant and undivided interest in and to the Common Elements.

ARTICLE IV. NATURE AND INCIDENTS OF TOWNHOME OWNERSHIP

4.1 Estates of an Owner. The Estate of each Owner in a Townhome Unit shall consist of a fee simple interest in such Owner's Unit together with an undivided percentage interest in the Common Elements in the percentages allocated under Section 3.5 above. The undivided interests in the Common Elements are declared to be appurtenant and inseparable from the Unit to which they are Townhomes.

4.2 Relocation of Boundaries Between or Combination of Adjoining Townhome Units. Except as provided in Section 14.5 below, no Owner may relocate boundaries between adjoining Townhome Units, combine adjoining Townhome Units, or have the right to subdivide any Townhome Unit.

4.3 Title. Title to a Townhome Unit may be held in any manner in which title to real property may be held or owned in the State of Colorado.

4.4 Inseparability. Except as provided in Section 14.5 below, no part of a Townhome Unit or of the legal rights comprising ownership of a Townhome Unit may be separated from any



other part thereof during the period of Townhome ownership prescribed herein, so that each Townhome Unit and the undivided interest in the Common Elements appurtenant to such Townhome Unit shall always be conveyed, devised, encumbered, and otherwise affected only as a complete Townhome Unit. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Townhome Unit or any part thereof shall be conclusively presumed to include all appurtenant rights created by law or by this Declaration.

4.5 Partition Not Permitted. No Owner may bring any action for partition of the Common Elements.

4.6 Owner's Right to Common Elements. The Owner or Owners shall have the nonexclusive right to use and enjoy the Common Elements shown on the Townhome Map. The Limited Common Elements shown on the Townhome Map designated as fenced backyard shall be for the limited use of the designated Owner and shall be the responsibility of the designated Owner to maintain.

4.7 Owner's Rights With Respect to Interiors. Each Owner shall have the exclusive right to paint, repaint, tile, carpet, drape, wax, paper or otherwise finish or refinish and decorate the interior surface of the walls, ceilings, floors, windows and doors forming the boundaries of such Owner's Unit.

4.8 Easements for Encroachments. If any part of the Common Elements encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Elements, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Elements or the Units. If any part of the utilities, such as gas, electric, telephone and cable metering devices and supply lines, shall encroach upon the General Common Elements, Limited Common Elements or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Encroachments referred to herein include, but are not limited to, encroachments caused by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of any improvements to the Common Interest Community created hereby.

4.9 Easements of Access for Repair, Maintenance and Emergencies. The right of each Owner to the use, occupancy and enjoyment of a Townhome Unit shall be subject to the right of the person or entity having the duty or responsibility to maintain or repair the Common Elements, as such duty and responsibility is Townhomes under this Declaration, to have access to each Unit and to the Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair, emergency repair or replacement of any of the



Common Elements or to prevent damage to the Common Elements or any Unit. Any damage caused to a Unit or the Common Elements related thereto, as a result of the exercise of the easements granted hereunder for the purposes stated herein shall be an expense of the Association; provided, however, that if such damage is the result of the negligence of a Unit Owner, then such Owner shall be obligated to pay for all such damage. Any such damage shall be repaired and the Unit or Common Elements shall be restored substantially to the same condition as existed prior to such damage. The Association may make a special assessment under this Declaration to pay for such damage.

4.10 Owner's Right to Ingress and Egress and Support. Each Owner shall have the right to ingress and egress over, upon and across the Common Elements necessary for normal access to such Owner's Townhome Unit, and shall have the right to the horizontal and lateral support of such Owner's Townhome Unit, and such rights shall be appurtenant to and pass with the title to each Townhome Unit.

4.11 Right to Use of Common Elements. The Association shall have a nonexclusive easement to make such use of the Common Elements subject to the repair and maintenance obligation of the Association as may be reasonable or necessary to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration. The Owners of the Townhome Units shall have a nonexclusive easement to make use of the Common Elements related to a Townhome Unit as may be reasonable or necessary to perform the duties and functions of the Owners of such Units which they are obligated or permitted to perform pursuant to this Declaration.

4.12 Easements Deemed Created. All conveyances of Townhome Units shall be subject to the easements set forth in this Declaration, even though no specific reference to such easements appears in any such conveyance.

4.13 Ad Valorem Taxation. As soon as possible after the Townhome Map, if such map depicts Units, shall have been filed for record in Montrose County, Colorado, Declarant shall deliver a written notice to the Assessor of Montrose County, Colorado, as provided by law, setting forth the depictions of the Townhome Units so that each Townhome Unit shall be assessed separately thereafter for all taxes, assessments and other charges of any other taxing or assessing authority. No forfeiture or sale of any Townhome Unit for delinquent taxes, assessments, or other governmental charges shall divest or in any way affect the title to any other Townhome Unit.



**ARTICLE V. CONVEYANCE AND DESCRIPTION
OF A TOWNHOME UNIT**

5.1 Every purchase contract for the sale of a Townhome Unit written prior to the filing for record of this Declaration and the Townhome Map shall be effective and binding on the parties thereto if it described a Townhome Unit by its identifying Unit number or name, and states that such Townhome Unit will have an undivided interest in the Common Elements appurtenant thereto, as such Townhome Unit and appurtenant Common Elements shall be designated in this Declaration and the Townhome Map to be filed for record in Montrose County, Colorado, and such description shall conclusively be presumed to relate to the corresponding Townhome Unit reflected thereon.

After this Declaration and the Townhome Map shall have been filed for record in Montrose County, Colorado, every contract for the sale of a Townhome Unit and every other instrument affecting title to a Townhome Unit shall describe that Townhome Unit by reference to its identification number or name shown on the Declaration and the Townhome Map, as each shall appear in the records of the County Clerk and Recorder of Montrose County, Colorado, in the following fashion:

Townhome Unit designated _____, as shown on the Townhome Map for IRON HORSE TOWNHOMES appearing in the records of the County Clerk and Recorder of Montrose County, Colorado, Reception No. _____, and as defined and described in that Declaration — IRON HORSE TOWNHOMES, appearing in such records in Book _____ at Page _____.

Such description will be construed to describe the Townhome Unit, together with the appurtenant undivided interest in the Common Elements, and to incorporate all the rights incident to ownership of a Townhome Unit and all the limitations on such ownership as described in this Declaration.

ARTICLE VI. MECHANIC'S LIEN RIGHTS

No labor performed or materials furnished for use in connection with any Unit with the consent or at the request of an Owner or an Owner's agent or subcontractor shall create any rights to file a statement of mechanic's lien against the Unit of any Owner not expressly consenting to or requesting the same or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Unit of the Owner for whom the labor shall have been performed and such materials shall have been furnished. Each Owner shall indemnify and hold harmless each of the other Owners from and against liability or loss arising from the



claim of any lien against the Townhome Unit, or any part thereof, of any other Owner for labor performed or for materials furnished in work on the first Owner's Unit. At the written request of any Owner of such a Townhome Unit, the Association shall enforce such indemnity by collecting from the Owner of the Townhome Unit on which the labor was performed and materials furnished the amount necessary to discharge any such lien, including all costs incidental thereto, and obtaining discharge of the lien.

ARTICLE VII. THE ASSOCIATION

7.1 General. The Association shall be and constitute the entity to exercise the powers and perform the duties of the Association set forth in this Declaration. The Association may take all actions reasonable or necessary to perform its duties and exercise its powers to the fullest extent permitted by law, subject to the provisions of this Declaration.

7.2 Membership. Each Owner of a Townhome Unit shall be a member of the Association. If title to a Townhome Unit is held by more than one party, the membership or memberships related to that Townhome Unit shall be shared by all such parties in the same proportionate interest in which the title to such Townhome Unit is held. The Owners of Townhome Units shall be entitled to one membership for each Townhome Unit owned. The memberships of the Association may not be transferred except in connection with the transfer of the Unit to which they are Townhomes; provided, however, that the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on such Townhome Unit.

7.3 Voting Rights. The Association shall have one class of membership. Each membership shall entitle the Owner thereof to one vote in the Association as provided in the Articles, Bylaws, Policies, Procedures, Rules, and Regulations of the Association. In the event there are multiple Owners of a membership, their vote shall be cast according to the vote of a majority in interest to such Townhome Unit.

7.4 Transfer; Delegation. Except as otherwise expressly stated herein, any of the rights, interests, duties, functions and obligations of the Association set forth herein or reserved herein may be transferred, assigned, or delegated to any other person or entity; provided, however, that no such transfer, assignment or delegation shall relieve the Association of any of the obligations set forth herein. Any such transfer, assignment or delegation shall not revoke or change any of the rights or obligations of any Owners as set forth herein.

7.5 Amplification. The provisions of this Article are to be amplified by the Articles of Incorporation and Bylaws of the Association; provided, however, that no such amplification

shall alter or amend any of the rights or obligations of the Association or the Owners as set forth herein.

ARTICLE VIII. POWERS AND DUTIES OF THE ASSOCIATION

8.1 The Common Elements. The Iron Horse Single Family Association shall be responsible for the maintenance and repair of the Common Elements.**

8.2 Insurance. The Association shall insure the Townhome Units and all Common Elements in the amounts and to the extent required by the Act under section 38-33.3-313, C.R.S., and Article XIII of this Declaration.

8.3 Miscellaneous Services. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable to perform its powers and duties, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom it contracts. The cost of such services shall be borne as an assessment under this Declaration.

8.4 Personal Property for Common Use. The Association may acquire and hold for the use and benefit of Unit Owners tangible and intangible personal property and may dispose of the same by sale or otherwise. The Owner of each Unit may use such property in accordance with the purpose for which it is intended, subject to rules and regulations governing use established by the Association.

8.5 Rules and Regulations. The Association may make, and the Unit Owners shall comply with, rules and regulations governing the use of the Units, Common Elements and personal property for common use, which rules and regulations shall be consistent with such Unit Owners' rights and duties established in this Declaration, Articles, Bylaws, Policies, Procedures, Rules, and Regulations of the Association.

8.6 Enforcement. The Association shall have the power to enforce this Declaration for the compliance of the Unit Owners and their lessees, invitees and licensees, to the full extent permitted by law, including actions at law or in equity. Without limitation on the foregoing, the Association may suspend a Unit Owner's voting rights in the Association during any period of such Owner's noncompliance with this Declaration or the Association's Articles of Incorporation, Bylaws or rules and regulations.

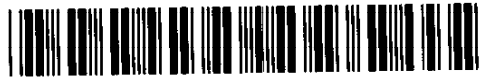
ARTICLE IX. ASSESSMENTS

9.1 Agreement to Pay Assessment. The Owners of each Townhome Unit shall pay to the Association assessments made by the Association, at the time, in the manner and for the purposes provided in this Declaration. Such assessments shall be established, levied and collected from time to time in the manner provided in this Article. Until the Association makes a common expense assessment, Declarant shall pay all common expenses of the Townhome Units. Assessments under this Declaration are restricted to the performance of the Association's duties and exercise of the Association's powers as to the Units and related Common Elements only. The assessments may include any regular or special assessment or reserve fund withheld as necessary to satisfy a demand by the Iron Horse Single Family Association to pay costs associated with the repair, maintenance or replaced of **Common Areas**.

9.2 Amount of Regular Assessments. The regular assessments shall be based upon an annual budget adopted by the Association to provide for the payment of all estimated expenses arising out of or connected with the performance of the Association purposes. Said estimated expenses shall include management fees and expenses; insurance premiums; wages for Association employees; water, sewer and trash removal; legal and accounting fees; any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus and/or sinking fund; a proportionate share of the Iron Horse Single Family Association's fees and expenses as determined by the Iron Horse Single Family Association to cover the Association's pro rata share of the expenses related to the maintenance of the Iron Horse Community Common Areas; and any other expenses and liabilities which may be incurred by the Association under or by reason of this Declaration.

9.3 Apportionment of Expenses. Regular and special assessments for the maintenance and repair of the Townhome Units shall be assessed among the Owners of the Units equally. Any assessment permitted to be assessed against less than all of the Owners subject to assessment shall be assessed to such Owners in the proportion based upon the number of interior square feet within each Unit of an Owner to be assessed divided by the number of interior square feet in the Units of all Owners to be assessed, excluding the Owners not subject to assessment.

9.4 Notice of Regular Assessments and Time for Payment. Assessments may be made on a calendar month, quarter or year basis as the Association may select. The Association shall give written notice to each Owner subject to assessment as to the amount of the assessment with respect to such Owner's Townhome Unit within thirty (30) days of the determination and levy of such assessment. Such assessment shall be due and payable on or before ten (10) days following receipt of the notice of assessment, or, in the event the assessment shall be paid monthly, on or before the 10th day of each month. Each assessment shall bear interest at the rate established by the Association, or eighteen percent (18%) per annum if no rate is established by



the Association, from the date it becomes due and payable if not paid within ten (10) days after such date. Failure of the Association to give timely notice of any assessment as provided herein shall not affect the liability of the Owner of any Townhome Unit subject to such assessment, but the date when payment shall become due in such a case shall be ten (10) days after such notice shall have been given. In the event any Owner shall fail to bring delinquent assessments current within ten (10) days of written notice of delinquency given by the Association, together with interest thereon, the Association shall have the option, but not the obligation, of accelerating and declaring immediately due and payable the balance of such Owner's assessments for that year.

9.5 Reserve Fund. Each Owner, at the time the Owner acquires his or her Unit, shall make a non-refundable contribution to the Reserve Fund of the Association in the amount of \$300.00. Such payment shall not be considered as an advance payment of regular or special assessments or relieve an Owner from making the regular or special assessments when the same become due.

9.6 Special Assessments. In addition to the regular assessments authorized by this Article, the Association may levy a special assessment, payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any unexpected repair, maintenance or other expense incurred or to be incurred as authorized in this Declaration. This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections hereof which shall make specific reference to this Article. The amounts assessed hereunder shall be Townhomes under Section 9.3. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners subject to assessment, and no payment shall be due less than thirty (30) days after such notice shall have been given. A special assessment shall bear interest at the rate of eighteen percent (18%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

9.7 Rent. The Association shall have no authority to assess or collect rent from the Townhome Unit Owners for any purpose.

9.8 Lien for Assessments. All sums assessed pursuant to this Article, together with interest thereon as provided herein, shall be secured by a lien on the Townhome Unit subject to assessment in favor of the Association and in compliance with section 38-33.3-316, C.R.S. Such lien shall have the priority set forth in section 38-33.3-316, C.R.S., provided, however, if such statute is repealed, then such lien shall be superior to all other liens and encumbrances on such Townhome Unit, except only for: Valid tax and special assessment liens on the Townhome Unit in favor of any governmental assessing authority. All other lienors acquiring liens on any Townhome Unit subject to assessment after this Declaration shall have been recorded in said



records shall be deemed to consent that such liens shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

To evidence a lien for sums assessed pursuant to this Article, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Townhome Unit subject to assessment and a description of the Townhome Unit. Such a notice shall be signed by the Association and may be recorded in the office of the County Clerk and Recorder of Montrose County, Colorado. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Colorado. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the notice of lien, and all reasonable attorneys' fees. All such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Townhome Unit which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, encumber and otherwise deal with the same as the Owner thereof.

A release of notice of lien shall be executed by the Association and recorded in the Montrose County, Colorado real estate records upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

Any encumbrancer holding a lien on a Townhome Unit subject to assessment may pay, but shall not be required to pay, any amounts secured by the lien created by this Section, and upon such payment, such encumbrancer shall be subrogated to all rights of the Association with respect to such lien, including priority.

The Association may report to any encumbrancer of a Townhome Unit any unpaid assessments remaining unpaid for longer than ninety (90) days after the same shall have become due; provided, however, that such encumbrancer first shall have furnished to the Association written notice of such encumbrance.

9.9 Personal Obligation of Owner. Assessments under this Article shall be the personal obligation of the Owner of the Townhome Unit subject to assessment to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No member or Owner may avoid or diminish such personal obligation by waiver of the use and enjoyment of any of the Common Elements or by abandonment of such Owner's Unit.



9.10 Statement of Account. Upon written request of any member or member's designee or any Mortgagee, prospective Mortgagee or prospective purchaser of a Townhome Unit, the Association shall issue a written statement setting forth the amount of the unpaid assessments, if any, currently levied with respect to such Townhome Unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for advanced payments or prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums, which statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within fourteen (14) days, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statements.

ARTICLE X. PARTY WALLS

10.1 General Rules of Law to Apply. Each wall which is built as a part of the original construction of the townhome upon the Property and placed on the boundary line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

10.2 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall.

10.3 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, the Owners who have used the wall shall restore it, and they shall contribute to the cost of restoration thereof equally without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions.

10.4 Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

10.5 Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

E10.6 Easement for Siding Encroachment. Each Owner of a townhome shall have an easement upon the adjoining Lot having a common boundary line on which the party wall shall



be located, such easement to be equal in width to any encroachment caused by exterior building siding.

ARTICLE XI. PROVISIONS RELATING TO TOWNHOME UNITS

11.1 Restoration and Reconstruction. In the event of any casualty, loss or damage to the Townhome Unit or the related Common Elements, the Owner of such Townhome Unit shall repair or restore all damaged improvements to the equivalent condition as they existed before such damage or destruction.

11.2 Eminent Domain. In the event that all of the Townhome Units are taken by condemnation, then the award in condemnation shall be apportioned among the Owners of such Units as they may agree, but if there is no agreement, according to applicable Colorado law, and in such event, the Townhome ownership shall terminate and the Lease will terminate as to the Townhome Units. In the event there is a partial taking of the Townhome Units, then the award shall be Townhomes among the Owners affected by condemnation according to their agreement, but if there is no agreement, to be Townhomes as follows:

11.2.1 The total amount Townhomes to the taking of or injury to the Common Elements related to the Commercial Unit shall be apportioned among such Owners according to their percentage interest therein; and

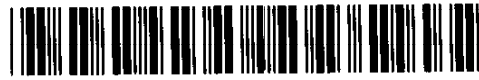
11.2.2 The respective amounts Townhomes to the taking of a particular Unit shall be apportioned to the particular Unit involved. Further, in the event of a partial taking, the Lease shall be terminated as to those portions taken, but remain in effect subject to proportionate rental reduction as to those portions remaining.

11.3 Structure Requirements. All engineering for the Units shall be by a Colorado licensed professional engineer.

ARTICLE XII. RESTRICTIONS ON USE

12.1 Maintenance of Lots, Improvements and Common Areas.

12.1.1 In addition to the maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Building situate upon each Lot which is subject to assessment hereunder as follows: paint, repair, replacement and care of roofs,



gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not include glass surfaces.

12.1.2 The Limited Common Elements shown on the Townhome Map designated as fenced backyard area shall be for the exclusive use of the designated Owner and shall be the responsibility of the designated Owner within that area to maintain. If the Owner fails to maintain such areas, the Association will maintain such Limited Common Elements at the Owner's expense and bill the Owner for such expense.

12.1.3 In the event that the need for maintenance or repair of a Lot or the Improvements situate thereon is caused through the willful or negligent acts of the family, guests or invitees of the Owner of the Lot needing such maintenance or repair, the costs of such exterior maintenance shall be added to and become a part of the assessment to which such Lot is subject.

12.2 Home Occupations and Offensive Activities.

12.2.1 The Lots, Improvements and Common Area may not be used for commercial purposes of any type whatsoever excepting for home occupations. For purposes of this Section, "home occupations" shall mean an occupation by the resident conducted totally within the residential building which does not entail the employment of third persons on the premises and does not entail the delivery of goods or services to customers upon the premises. For example, but not by limitation, an insurance agent may use his residence as a personal office so long as customers are not permitted to come to the residence; however, the establishment of a barber shop or a beauty shop would be prohibited. All home occupations are subject to the requirements of the City of Montrose Zoning and Development Code.

12.2.2 No noxious or offensive activity of any type whatsoever shall be carried on within any Lot or the Common Area that shall become an annoyance or nuisance to the occupants of other Lots. Owners and occupants and their guests shall exercise reasonable care to avoid making or permitting to be made loud, disturbing or objectionable noises, and in using or playing or permitting to be used or played musical instruments, radios, phonographs, television sets, amplifiers and any other instruments or devices in such a manner as may disturb or tend to disturb Owners, tenants or occupants of other Buildings. Parents shall be responsible for keeping children from disturbing other residents.

12.3 Restrictions on Occupants and Pets. Pets shall be permitted, provided they are limited to a reasonable number; are kept, bred or raised solely as household pets for private use



and not for commercial purposes; are not permitted on the Common Area unaccompanied by an adult; and that pet droppings are not left on the Common Area. Dogs and cats shall not be of a size larger than standing sixteen (16) inches at the shoulder. Any animal which shall be a nuisance or annoyance to any Owner shall be prohibited. The Association Board, when requested by any Owner, shall determine whether the number of pets are reasonable or whether any animal or pet shall be a nuisance to any other Owner. Pets and Owners are subject to the requirements of the City of Montrose Code of Ordinances.

12.4 Parking. No vehicle belonging to or under the control of an Owner or occupant, or member of the Owner's or occupant's family, including guests or employees, shall be parked in such a manner as to impede or prevent ready access to any entrance to or exit from a Building. All vehicles shall be parked within designated parking areas. Any traffic flow markings and signs regulating traffic shall be strictly observed.

12.5 Landscaping.

12.5.1 No Owner shall remove, alter, injure or interfere in any way whatsoever with any tree, shrub or other landscaping or Improvement placed upon the Property by the Declarant or the Association.

12.5.2 No tree, shrub or planting of any type shall be permitted to overhang or otherwise encroach upon or above any easement created pursuant to this Declaration or The Replat such as to hinder or interfere with the purposes for which such easement was created.

12.6 Signs. No signs of any type shall be displayed in public view on any Lot except such signs as may be required by legal proceedings or one (1) sign of not more than six (6) square feet advertising such Lot for sale, resale or rent.

12.7 Fences. No fences (including plantings such as hedges or trees which would be in the nature of a fence) shall be placed on any portion of the Property except for such fences as may be installed by the Association with the unanimous consent of the Owners. All fences shall be of white vinyl or wood as approved by the ACC. All fencing will require City of Montrose Planning clearance.



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12.8 Miscellaneous.

12.8.1 No Lot shall be used in any manner whatsoever to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substances or other mineral of any type.

12.8.2 No Lot shall be further subdivided or split into other parcels.

12.8.3 No outside clothes lines or other outside clothes drying or airing facilities shall be kept or maintained upon any Lot.

12.8.4 All facilities for permanent utilities' service shall be kept or maintained underground, or in the original condition at such time the Lot and Improvements thereon are first conveyed to the Owner by Declarant.

12.8.5 No antenna for transmission or reception of television signals or any other form of electromagnetic radiation shall be erected, used or maintained out of doors, except as shall be permitted by the Architectural Control Committee. Further, no wiring for electric or telephone installation or for any other purpose, or machines or air-conditioning units shall be installed on the exterior of any Building which shall protrude through the walls or the roof unless expressly authorized by the Architectural Control Committee.

12.8.6 Any damage to the Common Area caused by the Owner or occupant, or the Owner's or the occupant's child or pets or guests, shall be repaired at the expense of such Lot Owner. Anyone selling a Lot shall provide the new Owner or occupant with a list of approved regulations of the Association.

ARTICLE XIII. REVOCATION OR AMENDMENT TO DECLARATION

Except for amendments or supplements to this Declaration or the Townhome Map by Declarant, this Declaration shall not be revoked nor shall any of the provisions herein be amended unless all Townhome Unit Owners and all of the holders of first and second Mortgages on Townhome Units consent and agree to such revocation or amendment by instruments duly recorded.



ARTICLE XIV. MISCELLANEOUS

14.1 Compliance with Provisions of Declaration, Articles of Incorporation and Bylaws of the Association. Each Owner shall comply with the provisions of this Declaration and the applicable provisions of the Articles of Incorporation and Bylaws of the Association, and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due, damages or injunctive relief, as is applicable under the circumstances, and costs and expenses of such proceeding, including all reasonable attorneys' fees. Such action shall be maintainable by Declarant or the Owners.

14.2 Registration of Mailing Address; Notices. Each Owner of a membership in the Association shall register a mailing address with the Association and all notices, requests or demands intended to be served upon any Owner of a membership, except for budget statements, notices of meeting and other routine notices, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner of a membership at such registered mailing address. Unless otherwise provided herein, budget statements, notices of meetings and other routine notices may be sent by regular mail, postage prepaid, addressed in the name of the Owner of a membership at such registered mailing address. All notices, requests or demands intended to be served upon the Association shall be given by registered or certified mail, postage prepaid, to the address of the Association as designated in the Articles of Incorporation or Bylaws of the Association. All notices, requests or demands to be served on Mortgagees pursuant hereto shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such address as the Mortgagee may have furnished to the Association in writing. Unless the Mortgagee furnishes the Association such address, the Mortgagee shall be entitled to receive none of the notices provided for in this Declaration. Any notice referred to in this Section or required under this Declaration, the Articles of Incorporation or the Bylaws of the Association shall be deemed sufficiently given when deposited in the United States mail in the form provided for in this Section.

14.3 Owner's Obligations Continue. The conveyance of a Townhome Unit shall not affect the obligation of any Owner under this Declaration incurred or accruing to the point of such conveyance. However, the Owner of a Townhome Unit shall have no obligation for expenses or other obligations accruing after the Owner conveys such Townhome Unit.

14.4 Transfer of Declarant's Rights. Any rights or interests reserved hereby to Declarant may be transferred or assigned by Declarant.

14.5 Modification of Declaration by Declarant. Declarant reserves the right to make modifications, additions or deletions in or to this Declaration as may be required by a mortgage



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lender or insurer. Such modifications, additions or deletions will not increase the cost of Townhome Units, there will be no material physical modifications of the Common Interest Community, and any such changes will not decrease the financial obligations of Declarant as a Unit Owner.

14.6 Warranty. Declarant disclaims any intent to warranty or make representations except as is set forth in this Declaration.

14.7 Severability. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

14.8 Rule Against Perpetuities. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, that such provision shall continue only for the period of the life of Declarant, plus twenty-one (21) years.

14.9 Applicability. This Declaration shall inure to the benefit of and be binding upon the undersigned, and their successors and assigns.



THIS DECLARATION is executed as of the 25th day of May, 2006.

DECLARANT:

DARTER, LLC,
a Colorado limited liability company

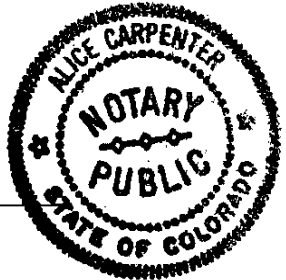
By *Terry Lawrence*
Terry Lawrence, manager

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 25th day of May, 2006, by Terry Lawrence, manager of Darter, LLC, a Colorado limited liability company.

Witness my hand and official seal.
My commission expires: 2/28/07.

Alice Carpenter
Notary Public





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EXHIBIT A

Lots 1 and 2,

Keep Minor Subdivision,

NE ¼ of Section 26, Township 49 North, Range 9 West, N.M.P.M.,

as shown on the Plat for Iron Horse Subdivision Filing #1 recorded at Reception No.

_____, Page _____, described as Lots 70, 71C and 71D,

Montrose County, Colorado