

EXHIBIT B

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
FORBES WAGON CREEK RANCH, COSTILLA COUNTY, COLORADO**

THIS DECLARATION, made and executed this 26th day of January, 1979, by Sangre de Cristo Ranches Inc., a corporation incorporated under the laws of the State of Colorado, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property described in Exhibit A attached hereto and made a part hereof; hereinafter referred to as "Forbes Wagon Creek Ranch"; and

WHEREAS, Declarant desires to create thereon a subdivision for the enjoyment and convenience of the persons who wish to live in Forbes Wagon Creek Ranch, with access to it reserved for and restricted to those parties designated in Article IV hereof; and

WHEREAS, Declarant desires to insure the attractiveness of Forbes Wagon Creek Ranch, to prevent nuisances, to preserve, protect and enhance the values of Forbes Wagon Creek Ranch and to provide for the maintenance of the roads therein. To accomplish these purposes, Declarant (a) desires to subject the real property described in Exhibit A, together with such additions as may hereafter be made thereto, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said real property and each Owner thereof; (b) has caused to be incorporated the Forbes Wagon Creek Ranch Owners Association (hereinafter referred to as "Association"), as a nonprofit corporation under the laws of the State of Colorado for the purpose of exercising the powers and functions granted to it by this Declaration and by its Articles of Incorporation and Bylaws; and (c) desires that an Environmental Control Committee be created.

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit A attached hereto shall be held, transferred, sold, conveyed, improved and occupied subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, which shall run with the real property and be binding on all parties having any right, title or interest in Forbes Wagon Creek Ranch or any additions thereto or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

Section 1. "Association" shall mean and refer to the Forbes Wagon Creek Ranch Owners Association, its successors and assigns.

Section 2. "Association Property" shall mean and refer to all of the roads shown and depicted on Exhibit A attached hereto.

Section 3. "Board" shall mean and refer to the Board of Directors of the Association.

Section 4. "Committee" shall mean and refer to the Environmental Control Committee.

Section 5. "Contractor" shall mean and refer to each person who has been selected by an Owner to provide goods, materials or services of any kind for such Owner and who has been authorized by the Committee to enter Forbes Wagon Creek Ranch for any such purpose.

Section 6. "Declarant" shall mean and refer to Sangre de Cristo Ranches Inc., its successors and assigns. Declarant shall be a Member of the Association but not an Owner.

Section 7. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, as it may be amended from time to time, applicable to Forbes Wagon Creek Ranch and recorded in the Office of the Clerk and Recorder of Costilla County, Colorado.

Section 8. "Dependent" shall mean and refer to a family member of an Owner or a tenant of an Owner who resides in such Owner's or tenant's primary residence and who is primarily dependent on such Owner or tenant for financial support.

Section 9. "Fiscal Year" shall mean and refer to the period from October 1 to September 30, inclusive.

Section 10. "Forbes" shall mean and refer to Forbes Trinchera Inc.

Section 11. "Forbes Wagon Creek Ranch" shall mean and refer to that certain real property described in Exhibit A.

Section 12. "Guest" shall mean and refer to any person who is a visitor or invitee and who (a) is accompanied by an Owner, Dependent, the Declarant or a tenant, or (b) has been granted permission by an Owner to occupy his house for a period of time.

Section 13. "Improvement" shall mean and refer to every structure and all appurtenances hereto of every type and kind, including but not limited to buildings, outbuildings, patios, tennis courts, swimming pools, antennas, exterior lights, roads, driveways, parking areas, fences, screening walls, retaining walls, landscaping, plantings, signs; and poles, tanks, reservoirs, pipes, towers and other facilities used in connection with

- (h) To provide an annual audit of the accounts of the Association and to make a copy of such audit available to each Member during normal business hours at the principal office of the Association. Any Member may, at any time and at his own expense, cause an audit or inspection to be made of the books and records of the Association by a certified public accountant provided that such audit or inspection is made during normal business hours and without unnecessary interference with the operations of the Association.

ARTICLE IV PROPERTY RIGHTS

Section 1. Right and Easement of Use and Enjoyment, Powers of Association and Board. Declarant, Forbes and every Owner shall have a right and easement of ingress and egress and of use and enjoyment in and to the Association Property. Such right and easement shall be appurtenant to and shall pass with the title to every Parcel, subject to the following authority and powers of the Association as hereinafter specified:

- (a) The right and power of the Association to levy general and special assessments against all Parcels in Forbes Wagon Creek Ranch in accordance with the provisions of Article VI of this Declaration.
- (b) The right of the Association with respect to Association Property to use and reserve or to grant and convey easements and rights of way out of, in, on, over or under such property for the purpose of constructing, erecting, operating or maintaining thereon, therein or thereunder:
- (1) Lines, cables, wires, conduits, pipelines or other devices for utility purposes;
 - (2) Sewers, water systems, storm water drainage systems and pipelines; and
 - (3) Any similar improvements or facilities.

No transfer or dedication of Association Property shall be made for any purposes other than those purposes stated above except with the approval of not less than two-thirds (2/3) of the Voting Members.

- (c) The right of the Association to provide watchmen, guards or police at points of entry onto Forbes Wagon Creek Ranch and at such other places and for such other purposes as the Board shall determine.
- (d) The right of the Association to indemnify any person who was or is a party or is threatened to be made a party to any action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a director, officer, employee, servant or agent of the Association against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement, actually and reasonably incurred by him in connection with such action, suit or proceeding, if he acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Such determination shall be made (1) by a majority vote of a quorum of the Board consisting of directors who are not parties to such action, suit or proceeding, or (2) if such a quorum is not attainable, or, even if obtainable, a quorum of disinterested directors so direct, by independent legal counsel in a written opinion; provided, however, that if a director, officer, employee, servant or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to above, or in defense of any claim, issue or matter therein, then, to the extent that the Association has elected to provide indemnification, he shall automatically be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith without the necessity of any such determination that he has met the applicable standard of conduct set forth above.

Section 2. Tenancies. An Owner may lease or rent his Parcel to one Person provided such Parcel contains a dwelling house, and provided such tenancies are not created more frequently than once every two (2) weeks. The Association shall be given prior written notice of all tenancies.

ARTICLE V MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner and Declarant shall be a Member of the Association. If any property interest is held jointly or in common, the owners of such interest shall, at the time of purchase, designate to the Association one address to which all notices to such joint or common owners shall be sent. Other than by operation of law, no property interest may be held jointly or in common by more than four (4) persons and such four (4) persons shall not represent more than two (2) households.

Section 2. Voting Rights. Each Member shall be entitled to one (1) vote for each Parcel owned on which all assessments due the Association have been paid.

Section 3. Joint or Common Ownership. If any property interest is held jointly or in common by more than one (1) person, the vote for such Parcel shall be cast as a unit and neither fractional votes nor split votes shall be allowed. Any joint or common Owner shall be entitled to cast the vote or votes belonging to the joint or common Owners unless another joint or common Owner shall have delivered to the Secretary of the Association prior to the election a written statement to the effect that the Owner wishing to cast the vote has not been authorized to do so by the other joint or common Owner or Owners. In the event that such joint or

Section 8. Date of Commencement of Special Assessments. Any special assessment under Section 4 of this Article VI shall be applicable only to those Parcels subject to the obligation for annual assessments on the first day of October of the Fiscal Year in which such special assessment is levied. The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such special assessment.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within sixty (60) days after the due date shall be delinquent and shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may, if any assessment remains delinquent for ninety (90) days, foreclose the lien against the property in the same manner as is provided in the laws of Colorado for the foreclosure of mortgages on real property.

Section 10. Mortgagee Protection. Notwithstanding any other provisions of this Declaration, no lien created under this Article VI or under any other article of this Declaration, nor any lien arising by reason of any breach of this Declaration, nor the enforcement of any provision of this Declaration or of any supplemental declaration shall defeat or render invalid the rights of the beneficiary under any recorded mortgage or deed of trust of first and senior priority, now or hereafter upon a Parcel, made in good faith and for value. However, after the foreclosure of any such mortgage or deed of trust or after any conveyance in lieu of foreclosure, such Parcel shall remain subject to this Declaration and shall be liable for all regular annual assessments and all special assessments levied subsequent to completion of such foreclosure or delivery of such conveyance in lieu of foreclosure, and to all installments of all regular annual and special assessments levied prior to completion of such foreclosure or delivery of such conveyance, but falling due after such completion of such delivery. Sale or transfer of any Parcel will not affect or extinguish the assessment lien; however, the repossession of any Parcel pursuant to delinquency or default under an installment sales contract with Declarant shall extinguish the lien of such assessments as to payments, penalties or interest which became due prior to such repossession. No such repossession shall relieve such Parcel from liability for any assessments thereafter becoming due on the next October 1 assessment date or the lien thereof. No amendment of this Section 10 shall affect the rights of any mortgagee or beneficiary of any deed of trust or mortgage whose mortgage or deed of trust has the first and senior priority as above provided and who does not join in the execution of any such amendment, provided that his mortgage or deed of trust is recorded in the real property records of Costilla County, Colorado, prior to the recordation of such amendment; provided, however, that after foreclosure or conveyance in lieu of foreclosure, the property which was subject to such mortgage or deed of trust shall be subject to such amendment.

Section 11. Subordination. By subordination agreements executed by the Association, the benefits of preceding Section 10 may, in the sole and absolute discretion of the Board, be extended to beneficiaries not otherwise entitled thereto.

ARTICLE VII

ENVIRONMENTAL CONTROL COMMITTEE

Section 1. Creation of Environmental Control Committee. There shall be an Environmental Control Committee consisting of three persons appointed by the Board to exercise the controls and powers assigned it in this Declaration.

Section 2. Committee Control of Plans and Specifications. Excepting construction by Declarant or Forbes, no improvements shall be commenced, installed, built or erected upon a Parcel nor shall any exterior addition to, or change or alteration thereon, be made until all Plans and Specifications shall have been submitted to and approved by the Committee. The Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by this Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Committee. The Committee shall approve Plans and Specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the surrounding area and that the appearance of any structure affected thereby will be in harmony with the surrounding area. The Committee may condition its approval of Plans and Specifications on such changes therein as it deems appropriate and may require submission of additional Plans and Specifications or other information prior to approving or disapproving the materials submitted. The Committee may also issue rules or guidelines regarding anything relevant to its function, including but not limited to minimum standards and procedures for the submission of Plans and Specifications for approval. The Committee may require such detail in Plans and Specifications submitted for its review and such other information as it deems proper. Until receipt by the Committee of all required Plans and Specifications and other information, the Committee may postpone review of anything submitted for approval. In the event the Committee fails to notify a Member of its approval or disapproval of such Plans and Specifications in writing by certified mail within sixty (60) days after all Plans and Specifications and any other required information have been submitted to it, either in person or by certified mail, approval of the Committee shall be deemed to have been fully obtained.

Section 3. No Waiver of Future Approval. The approval or consent of the Committee to any Plans and Specifications for any work done or proposed or in connection with any other matter requiring the approval or

Committee may withdraw such licenses at any time such Contractor (a) uses nonspecified roads, (b) does not diligently pursue the work to be done; or (c) violates any of the Protective Covenants hereinafter set forth.

Section 10. Committee Control of Camping. The Committee shall have the power to grant camping privileges on Parcels to Owners, Dependents and Guests of either of them, provided the Owner or Dependent applies to the Committee either in writing or in person and satisfies the Committee that the Parcel to be so used will not be left littered with trash or waste and that such camping will not create a fire hazard to such Parcel or to Forbes Wagon Creek Ranch as a whole.

Section 11. Other Committee Powers. The Committee shall have the power to approve, control, permit, license and regulate such other activities and matters as the Board may from time to time determine.

ARTICLE VIII PROTECTIVE COVENANTS

The following restrictions, conditions and covenants, collectively called "Protective Covenants", are imposed upon all the Parcels and Association Property without limiting or altering the provisions of Article VII:

- (a) All refuse, rubbish, trash, garbage or waste shall be kept, disposed of or removed in a sanitary manner.
- (b) Any vehicle, whether selfpropelled or not, permitted to remain on any Parcel shall be kept in a licensed and operable condition. Any vehicle, whether selfpropelled or not, shall be parked in such a manner that it is not a nuisance, aesthetically or otherwise, to other Members. A vehicle shall not be parked on that part of any road normally used by vehicles being driven on such road. The provisions of this paragraph shall not apply to Declarant during time of construction of roads.
- (c) A professional quality sign of not more than four (4) square feet in area shall be allowed to be displayed on a Parcel for any purpose and one (1) additional sign of not more than four (4) square feet in area shall be allowed to be displayed for advertising such Parcel improvement thereon for sale, lease or rent.
- (d) Any outdoor fire shall be made in a facility or a receptacle having a properly operating spark screen. All fireplaces, whether inside a building or outdoors, shall have an operational approved spark screen covering the top of the chimney. Any condition which creates a fire hazard shall not be permitted on a Parcel.
- (e) Structures of a temporary or mobile nature, motor homes, mobile homes, camper trucks, travel trailers, camping trailers, or other vehicles used or designed for camping, or tents, shall not be placed on a Lot for more than three (3) consecutive nights and days more than once each calendar month except that the Committee may grant a permit (1) for any of the above to be placed on a Parcel and used for longer periods of time during construction of a dwelling, diligently pursued, or (2) for vacation camping under the conditions and procedures provided in Article VII hereof.
- (f) No single family residence exclusive of open porches, garages and carports, shall be less than eight hundred (800) square feet in main floor area. No commune, cooperative or similar type of living arrangement shall be permitted anywhere in Forbes Wagon Creek Ranch.
- (g) No commercial enterprise shall be operated.
- (h) Building materials shall not be placed on a Parcel nor shall foundation work be started for any improvement unless such improvement has previously been approved by the Committee. Once approval is obtained, such improvement must be completed within twelve (12) months after building materials are first placed on such Parcel or foundation work is begun, whichever occurs first.
- (i) Any vehicle requiring its operator to have an operator's license under the laws of the State of Colorado shall be operated only by a person having a valid operator's license.
- (j) All improvements shall be maintained in such a manner that they do not become (1) unsightly, (2) in disrepair, (3) unsanitary or (4) a fire hazard.
- (k) All livestock shall be kept within a completely fenced area.

ARTICLE IX GENERAL PROVISIONS

Section 1. Enforcement. The Association, the Board or any Member at his own expense, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges now or hereafter imposed by the provisions of this Declaration. Any monies received by any Member from any other Member or former Member on account of assessments levied by the Association, less all reasonable enforcement costs, shall be paid by such enforcing Member to the Association. Failure by the Association or by any Member to enforce any provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Violation a Nuisance. Every act or omission whereby any provision of this Declaration or any rules and regulations promulgated by the Association or the Committee is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated by any Member, at his own expense, or by the Board.

Section 3. Severability. Invalidation of any one of the provisions of this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

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SECOND AMENDMENT
TO DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
FORBES WAGON CREEK RANCH
COSTILLA COUNTY, COLORADO

RECITALS

This Second Amendment to Declaration of Covenants, Conditions, and Restrictions for Forbes Wagon Creek Ranch, Costilla County, Colorado (the "Declaration") is made as of the 24th day of October, 1996, by the Forbes Wagon Creek Ranch Owners Association (the "Association").

WHEREAS, on February 9, 1979, the Declaration was recorded in Book 206 at Pages 862-890, in the office of the Clerk and Recorder for the County of Costilla, State of Colorado; and

WHEREAS, the Association, a Colorado nonprofit corporation, its successors and assigns, represents the Owners, Members, and Declarant, as those terms are more particularly defined in the Declaration; and

WHEREAS, the Association desires to amend the protective covenants in Article VIII (g) and Article VIII (k) of the Declaration; and

WHEREAS, having obtained a sufficient number of votes and consents to amend the Declaration pursuant to Article IX, Section 5, of the Declaration, the Association desires to make certain amendments to the Declaration as provided herein.

NOW, THEREFORE, in consideration of the premises, the Association hereby publishes and declares as follows:

1. ARTICLE VIII (g) of the Declaration is hereby amended, in its entirety, to read as follows:

(g) No commercial enterprise shall be operated, except that the Association acting through its Board of Directors can from time to time enter into grazing leases for any and all property within the Forbes Wagon Creek Ranch, including Association Property and Parcels, except for any Parcel with respect to which the Association has timely received written notice from the Owner that the Owner has elected to exclude said Parcel from any future grazing lease to be entered into by the Association.

2. ARTICLE VIII (k) of the Declaration is hereby amended, in its entirety, to read as follows:

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(k) All livestock owned or controlled by an Owner shall be kept within a completely fenced area within the Owner's Parcel. This provision should not limit or restrict the Association's right to enter into grazing leases as provided in subparagraph (g) above.

IN WITNESS WHEREOF, the Association has duly executed this Second Amendment as of the day and year first written above.

FORBES CREEK RANCH OWNERS ASSOCIATION

A Nonprofit Colorado Corporation

By: John A. Hammel
John A. Hammel, President

STATE OF ^{Arizona} ~~COLOrado~~)
COUNTY OF ^{Maricopa}) ss.

The foregoing document was acknowledged before me this 2 day of Dec, 1996, by John A. Hammel, President of Forbes Creek Ranch Owners Association.

WITNESS my hand and official seal.

My commission expires: Annette Catalona



Notary Public



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CERTIFICATION BY ASSOCIATION SECRETARY

The undersigned, as Secretary of Forbes Wagon Creek Ranch Owners Association, the Association referenced in the Declaration and this Second Amendment, hereby certifies that the approval of the required percentage of Voting Members was obtained.

[Handwritten Signature]
Secretary

~~ALABAMA~~
STATE OF ~~COLORADO~~)
) ss.
COUNTY OF MADISON)

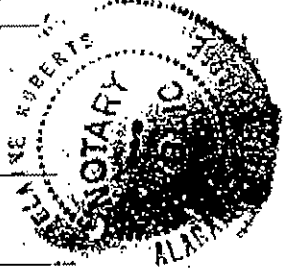
The foregoing document was acknowledged before me this 9th day of DECEMBER , 1996, by GARY GRIFFIN Secretary of Forbes Wagon Creek Ranch Owners Association.

WITNESS my hand and official seal.

My commission expires: _____

COMMISSION EXPIRES 9/12/03

[Handwritten Signature]
Notary Public



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water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

Section 14. "Member" shall mean and refer to every Owner and Declarant.

Section 15. "Owner" shall mean and refer to (a) the person or persons holding a fee simple title interest in a Parcel or in a portion of a subdivided Parcel, as the case may be, or (b) the purchaser or purchasers of a fee simple interest in a Parcel under an installment sales contract. Declarant shall not be an Owner.

Section 16. "Parcel" shall mean and refer to any plot of land shown as a numbered parcel upon any recorded subdivision plat of Forbes Wagon Creek Ranch.

Section 17. "Person" shall mean and refer to a natural individual or any other entity having the legal right to hold title to real property.

Section 18. "Plans and Specifications" shall mean and refer to any and all documents designed to guide or control the Improvement or other proposal in question, including but not limited to those indicating size, shape, configuration or materials, all site plans, excavation and grading plans, drainage plans, elevation drawings, samples of exterior colors, building products and materials, plans for utility services and all other documentation or information relevant to the Improvement or proposal in question.

Section 19. "Repairmen" shall mean and refer to each person who has been selected by an Owner to provide goods, materials or services of any kind for such Owner and who has not been authorized by the Committee to enter Forbes Wagon Creek Ranch for any such purpose.

Section 20. "Unit" shall mean and refer to a subdivided area of Forbes Wagon Creek Ranch which is designated as a Unit on a subdivision plat map.

Section 21. "Voting Member" shall mean and refer to any Member of the Association with respect to whose Parcel all assessments due the Association have been paid.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

The real property which initially is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is the real property described in Exhibit A attached hereto.

ARTICLE III

FORBES WAGON CREEK RANCH OWNERS ASSOCIATION

Section 1. Organization. The Forbes Wagon Creek Ranch Owners Association is a Colorado nonprofit corporation created for the purposes, charged with the duties and invested with the powers prescribed by law or set forth in its Articles of Incorporation, Bylaws and in this Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted except in accordance with this Declaration.

Section 2. Duties of the Association. The Association shall have and perform each of the following duties for the benefit of its Members:

- (a) To accept, own, operate and maintain in good repair and condition all Association Property and all Improvements of whatever kind and for whatever purpose now or hereafter located thereon, including all interior and access roads and railroad grade crossings and culverts on such roads, unless such access roads, railroad grade crossings and culverts are maintained by a governmental authority.
- (b) To pay over or convey, upon dissolution of the Association, the assets of the Association to one or more exempt organizations of the kind described in Section 501(c) of the Internal Revenue Code of 1954, as amended from time to time.
- (c) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to Association Property. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.
- (d) To obtain and maintain in effect policies of insurance adequate, in the opinion of the Board, in kind and amount. Without limiting the generality of the preceding sentence, such policies of insurance shall include bodily injury and property damage liability insurance, workmen's compensation insurance and such other insurance, including indemnity and other bonds, as the Board shall deem necessary.
- (e) To make, establish, promulgate, and in its discretion to amend or repeal and reenact, such rules and regulations, not in contradiction of this Declaration, as it deems proper covering any and all aspects of its functions. Each Member shall be entitled to examine such rules and regulations at any time during normal working hours at the principal office of the Association.
- (f) To appoint and remove members of the Environmental Control Committee as provided in Article VII hereof, and to insure that at all reasonable times there is available a duly constituted and appointed Environmental Control Committee.
- (g) To enforce, in its own behalf and in behalf of all Owners, all of the covenants, conditions and restrictions set forth in this Declaration and to perform all other acts, whether or not anywhere expressly authorized, as may be reasonably necessary to enforce any of the provisions of the Environmental Control Committee, the Articles of Incorporation and the Bylaws of the Association.

common Owners are unable to agree among themselves as to how their vote or votes shall be cast as a unit, they shall lose their right to cast their vote or votes on the matter in question.

Section 4. Proxies. A Member may cast an eligible vote in person or by proxy at any meeting of the Members.

Section 5. Cumulative Voting. The cumulative system of voting shall not be used for any purpose.

ARTICLE VI ASSESSMENTS

Section 1. Levy of Assessments and Lien. The Association shall have the right to levy and collect general and special assessments in accordance with the provisions of this Article VI against all Parcels in a Unit in which one or more of the Parcels in such Unit is owned by an Owner. No person shall be personally liable for any assessment; however, the annual and special assessments, together with interest, costs of collecting the same and reasonable legal fees, shall be a charge on each Parcel and shall be a continuing lien on each such Parcel upon which each such assessment is made. Such lien shall be prior to any declaration of homestead. However, the obligation for prior or delinquent assessments shall not pass to Declarant if Declarant regains possession of a Parcel previously sold by installment sales contract. If Declarant regains possession of such Parcel, all prior assessments or liens or both shall immediately cease and be extinguished.

Section 2. Purpose of Assessments. All amounts realized from assessments levied by the Association shall be used as determined by the Board for any lawful purpose consistent with this Declaration and the Articles of Incorporation and Bylaws of the Association, including, but not by way of limitation, the following: (a) to promote the recreation, health, safety and welfare of the Members; (b) for the restoration, improvement and maintenance of the Association Property; (c) for all services, equipment and facilities relating to the use and enjoyment thereof, including the operating of an entrance gate; and (d) for the payment of taxes, insurance and other costs and expenses on Association Property.

Section 3. Maximum Annual Assessment. Until October 1, 1979, the maximum annual assessment shall be \$50 per Parcel. Thereafter such annual assessments may be increased or decreased as follows:

- (a) From and after October 1, 1979, the maximum annual assessment may be increased or decreased each Fiscal Year by not more than ten percent (10%) above or below the assessment for the preceding Fiscal Year by action of the Board and without a vote of the membership;
- (b) From and after October 1, 1979, the maximum annual assessment may be increased or decreased annually by more than ten percent (10%) above or below the assessment for the preceding Fiscal Year by the affirmative vote of not less than two-thirds (2/3) of the eligible votes of the Voting Members voting in person or by proxy at the annual meeting or at a special meeting called for that purpose;
- (c) Neither the Association nor the Board may increase or decrease the annual assessment except as provided above.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any Fiscal Year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any reconstruction, repair or replacement of any Association Property, provided, however, that all special assessments shall be approved by the affirmative vote of not less than two-thirds (2/3) of the votes of the Voting Members voting in person or by proxy at the annual meeting or at a meeting called for that purpose.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of the time and location of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 of this Article shall be sent not less than thirty (30) days nor more than sixty (60) days in advance of the meeting to all Voting Members eligible to vote as of the date of the notice. At the first meeting called, Voting Members present in person or by proxy entitled to cast sixty percent (60%) of the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments shall be fixed at the same amount for each Parcel subject to assessment regardless of Parcel size, price or value.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessment for all Parcels in a Unit shall commence on the first day of October following the sale of the first Parcel in such Unit, either by fee simple conveyance or installment sales contract. Declarant shall pay the assessments on all Parcels which it owns. The annual assessment shall be paid in advance. The Board shall fix the amount of the annual assessment on each Parcel for the next Fiscal Year at the annual meeting. The due date for the annual assessment shall be October 1 of the Fiscal Year for which the assessment is made. Written notice of the amount of the annual assessment shall be sent to every Member subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Parcel have been paid.

water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

Section 14. "Member" shall mean and refer to every Owner and Declarant.

Section 15. "Owner" shall mean and refer to (a) the person or persons holding a fee simple title interest in a Parcel or in a portion of a subdivided Parcel, as the case may be, or (b) the purchaser or purchasers of a fee simple interest in a Parcel under an installment sales contract. Declarant shall not be an Owner.

Section 16. "Parcel" shall mean and refer to any plot of land shown as a numbered parcel upon any recorded subdivision plat of Forbes Wagon Creek Ranch.

Section 17. "Person" shall mean and refer to a natural individual or any other entity having the legal right to hold title to real property.

Section 18. "Plans and Specifications" shall mean and refer to any and all documents designed to guide or control the Improvement or other proposal in question, including but not limited to those indicating size, shape, configuration or materials, all site plans, excavation and grading plans, drainage plans, elevation drawings, samples of exterior colors, building products and materials, plans for utility services and all other documentation or information relevant to the Improvement or proposal in question.

Section 19. "Repairmen" shall mean and refer to each person who has been selected by an Owner to provide goods, materials or services of any kind for such Owner and who has not been authorized by the Committee to enter Forbes Wagon Creek Ranch for any such purpose.

Section 20. "Unit" shall mean and refer to a subdivided area of Forbes Wagon Creek Ranch which is designated as a Unit on a subdivision plat map.

Section 21. "Voting Member" shall mean and refer to any Member of the Association with respect to whose Parcel all assessments due the Association have been paid.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

The real property which initially is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is the real property described in Exhibit A attached hereto.

ARTICLE III

FORBES WAGON CREEK RANCH OWNERS ASSOCIATION

Section 1. Organization. The Forbes Wagon Creek Ranch Owners Association is a Colorado nonprofit corporation created for the purposes, charged with the duties and invested with the powers prescribed by law or set forth in its Articles of Incorporation, Bylaws and in this Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted except in accordance with this Declaration.

Section 2. Duties of the Association. The Association shall have and perform each of the following duties for the benefit of its Members:

- (a) To accept, own, operate and maintain in good repair and condition all Association Property and all Improvements of whatever kind and for whatever purpose now or hereafter located thereon, including all interior and access roads and railroad grade crossings and culverts on such roads, unless such access roads, railroad grade crossings and culverts are maintained by a governmental authority.
- (b) To pay over or convey, upon dissolution of the Association, the assets of the Association to one or more exempt organizations of the kind described in Section 501(c) of the Internal Revenue Code of 1954, as amended from time to time.
- (c) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to Association Property. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.
- (d) To obtain and maintain in effect policies of insurance adequate, in the opinion of the Board, in kind and amount. Without limiting the generality of the preceding sentence, such policies of insurance shall include bodily injury and property damage liability insurance, workmen's compensation insurance and such other insurance, including indemnity and other bonds, as the Board shall deem necessary.
- (e) To make, establish, promulgate, and in its discretion to amend or repeal and reenact, such rules and regulations, not in contradiction of this Declaration, as it deems proper covering any and all aspects of its functions. Each Member shall be entitled to examine such rules and regulations at any time during normal working hours at the principal office of the Association.
- (f) To appoint and remove members of the Environmental Control Committee as provided in Article VII hereof, and to insure that at all reasonable times there is available a duly constituted and appointed Environmental Control Committee.
- (g) To enforce, in its own behalf and in behalf of all Owners, all of the covenants, conditions and restrictions set forth in this Declaration and to perform all other acts, whether or not anywhere expressly authorized, as may be reasonably necessary to enforce any of the provisions of the Environmental Control Committee, the Articles of Incorporation and the Bylaws of the Association.

consent of the Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications or other matter whatever subsequently or additionally submitted for approval or consent by the same or a different Owner.

Section 4. Reimbursement of Members. The members of the Committee shall be entitled to reimbursement for expenses incurred by them in the performance of their duties hereunder.

Section 5. Meetings of the Committee. The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may, from time to time by resolution unanimously adopted in writing, designate one of its members to take any action or perform any duties for and on behalf of the Committee except the granting of variances. In the absence of such designation, the vote of a majority of all of the members of the Committee, or the written consent of a majority of all of the members of the Committee taken without a meeting, shall constitute an act of the Committee.

Section 6. Inspection of Work. Upon the completion of any Improvement for which approved Plans and Specifications are required under this Declaration, the Owner shall give written notice of completion to the Committee. Within such reasonable time as the Committee may set in its rules, but not to exceed fifteen (15) days thereafter, the Committee or its duly authorized representative may inspect such Improvement. If the Committee finds that such work was not done in strict compliance with all approved Plans and Specifications submitted or required to be submitted for its prior approval, it shall notify the Owner in writing of such noncompliance within such period, specifying in reasonable detail the particulars of noncompliance and shall require the Owner to remedy the same. If, upon the expiration of thirty (30) days from the date of such notification, the Owner shall fail to remedy such noncompliance, the Committee shall notify the Board in writing of such failure. Upon notice and hearing, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correction or removing the same. If noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board's ruling. If the Owner does not comply with the Board's ruling within such period, the Board, at its option, may either remove the noncomplying Improvement or remedy the noncompliance, and the Owner shall reimburse the Association upon demand for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy an assessment against such Owner and the Improvement in question and the land on which the same is situated for reimbursement and the same shall constitute a lien upon such land and Improvement and be enforced as in this Declaration provided. The Committee may inspect all work in progress and give notice of noncompliance as provided above. If the Owner denies that such noncompliance exists, the procedures set out above shall be followed, except that no further work shall be done, pending resolution of the dispute, which would hamper correction of the noncompliance if the Board shall find that such noncompliance exists.

Section 7. Non-Liability of Committee Members. Neither the Committee nor any member thereof nor the Board nor any member thereof shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's or the Board's respective duties under this Declaration unless due to the willful misconduct or bad faith of the Committee or its member or the Board or its member, as the case may be. Except insofar as its duties may be extended with respect to a particular area by the Association, the Committee shall review and approve or disapprove all Plans and Specifications submitted to it for any proposed Improvement, including the construction, alteration or addition thereof or thereto, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the surrounding area and Forbes Wagon Creek Ranch generally. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any Plans and Specifications be deemed approval thereof, from the standpoint of structural safety, engineering soundness or conformance with building or other codes.

Section 8. Variances. The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration, including restrictions upon height, bulk, size, shape, floor area, land area, placement of structures, setbacks, colors, materials or similar restrictions when circumstances such as topography, natural obstructions, hardship or aesthetic or environmental considerations may, in its sole and absolute discretion, warrant. Such variances must be evidenced in writing and must be signed by at least a majority of all of the members of the Committee. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision and in the particular instance covered by the variance.

Section 9. Committee Control of Contractors; Committee Power to Grant Temporary Ingress and Egress. The Committee shall have the power to approve or disapprove any contractor to be used for any of the purposes approved in Section 2 above, provided, however, that the Committee shall only disapprove a contractor for a reasonable cause stated in writing. The Committee shall approve or disapprove a contractor in writing within seven (7) days of the time the Committee is informed of the contractor's identity. The Committee shall have the power to grant temporary licenses permitting ingress and egress over specified roads in Forbes Wagon Creek Ranch to a Contractor and shall only grant such licenses to a Contractor for a specific period of time. The

Section 4. Life of Declaration. The covenants and restrictions of this Declaration, as they may be amended from time to time, shall run with and bind the property now or hereafter subjected to this Declaration for a term of ten (10) years from the date of this Declaration, after which time they shall be automatically extended for successive periods of ten (10) years, unless extinguished by a written instrument executed by at least three-fourths (3/4) of the Voting Members of the Association and recorded in the Costilla County, Colorado, real property records.

Section 5. Amendments: This Declaration may be amended, by an affirmative vote of not less than two-thirds (2/3) of the votes of the Voting Members. All amendments shall be recorded.

Section 6. Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third day (excluding Sundays or holidays) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the Person at the address given by such Person to the Association for the purpose of service of notices, or to the residence of such Person if no address has been given to the Association. Such address may be changed from time to time by notice in writing given by such Person to the Association.

ARTICLE X

OTHER PROVISIONS WITH RESPECT TO DECLARANT

Section 1. Parcel Sales and Sales Models. Notwithstanding any provisions to the contrary herein contained, Declarant shall be allowed to show and sell Parcels and use Parcels designated by it as sales models, conducting thereon usual activities for a period of ten (10) years from the date hereof. In addition, Declarant may maintain for said period such signs as may be required, in Declarant's discretion, to advertise Parcels for sale.

Section 2. Construction Work. Notwithstanding any provision to the contrary herein contained, Declarant shall be entitled to conduct development and construction activities even though such activities would otherwise be in violation of this Declaration.

IN WITNESS WHEREOF, this Declaration has been executed the day and year first above written.

SANGRE DE CRISTO RANCHES INC.

By: s/ Leonard H. Yablon
Leonard H. Yablon, President

(SEAL)

ATTEST:

s/ Leonard Greenberg
Leonard Greenberg, Assistant Secretary

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

The foregoing instrument was acknowledged before me this 26th day of January, 1979, by Leonard H. Yablon, as President, and Leonard Greenberg, as Assistant Secretary, of Sangre de Cristo Ranches Inc., a Colorado corporation.

Witness my hand and official seal.

My commission expires: 3-30-80

(SEAL)

s/ Marsha Isak
Notary Public
MARSHA ISAK
Notary Public, State of New York
No. 31-4633980
Qualified in New York County
Commission Expires March 30, 1980

EXHIBIT A

All properties included within the official plats of Units A, B, C, D, E, F, G, H, I, J, K and L of Forbes Wagon Creek Ranch as filed in Costilla County, Colorado.