

**DECLARATION OF PROTECTIVE COVENANTS
FOR CRISTO VISTA NO. 6 SUBDIVISION**

KNOW ALL MEN BY THESE PRESENTS THAT:

Livingston Properties Inc., a Colorado corporation, Lawrence E. Livingston and Victoria Anne Livingston, is the owner of certain real estate, known as the Cristo Vista No. 6 Subdivision (Subdivision), lying and being in the County of Custer, State of Colorado; to wit:

A subdivision including parts of Sections 8, 9, and 17, Township 22 South, Range 71 West of the 6th Principle Meridian, specifically described on a the plats of the Cristo Vista No. 6 recorded in the records of Custer County, Colorado on September 28, 1979, under Reception Number 122180; the vacation plat of Cristo Vista No. 6 recorded in the records of Custer County, Colorado on September 17, 1980, under Reception Number 124962; the plat of Cristo Vista No. 6A recorded in the records of Custer County, Colorado on September 17, 1980, under Reception Number 124963; and the plat of Cristo Vista No. 6B recorded in the records of Custer County, Colorado, on August 14, 1981, under Reception Number 127993.

Livingston Properties, Inc., Lawrence E. Livingston and Victoria Anne Livingston hereby make, declare and establish the following covenants, conditions, reservations, limitations and restrictions upon which and subject to which all lots, portions of lots and all other real estate in the Subdivision as described above, shall be improved, conveyed or sold by it as owner thereof. Each and every one of these covenants, conditions, reservations, limitations and restrictions is and all are for the benefit of each owner of land in such Subdivision, or any interest therein, and shall inure to and pass with each and every parcel of such Subdivision, and shall bind the respective successors in interest of each lot or parcel in the Subdivision. These covenants, conditions, reservations and restrictions are and each thereof is imposed upon such lots, for the mutual benefit and protection of all owners of such lots, and are to be construed as restrictive covenants running with the title to such lots and with each and every parcel of the Subdivision.

1. **Homeowners' Association.** The Cristo Vista No. 6 Subdivision Homeowners Association (Association), a Colorado non-profit corporation, or its successor in interest, shall regulate, administer and enforce this Declaration of Protective Covenants. Its duties shall include, without limitation, maintenance of roads and signs, administration and enforcement of the Water Plan for Augmentation, and general administration and control of the Subdivision. Each and every lot owner, in accepting a deed or contract for any lot in the Subdivision, agrees to and shall be a member of the Association and be subject to the duties and obligations created by the duly enacted Bylaws and Articles of Incorporation of the Association. By purchasing a lot, the owner of any lot in the Subdivision agrees to be subject to such assessments as may from time to time be levied on such owner by the Association. Nonpayment of such assessments may result in a recorded lien to be placed against such owners' lot. The Association shall operate as a non-profit corporation. All books, records, Articles of Incorporation, By-Laws and Resolutions of the Association shall be available for inspection by any prospective purchaser of a lot or any owner of a lot at any reasonable time.

2. **Duration.** All of the covenants, condition, reservations, limitations and restrictions shall continue and remain in full force and effect at all times as against the owner of any lot in the Subdivision,

regardless of how he acquired title, until the commencement of the calendar year 2004, on which date these covenants, conditions, reservations, limitations and restrictions shall terminate and end, and thereafter be of no further legal or equitable effect on such premises or any owner thereof; provided, however, that these covenants, conditions, reservations, limitations and restrictions shall be automatically extended for a period of ten years, and thereafter in successive ten-year periods, unless one or before the end of one of such extension periods or the base period the owners of a majority of the lots in the Subdivision shall by written instrument duly recorded declare a termination of the same. Although these covenants, conditions, reservations, limitations and restrictions may expire as herein provided, any and all remedies for violations of these covenants, conditions, reservations, limitations or restrictions committed or suffered prior to such expiration shall be absolute.

3. **Assessments.** The Association shall have the power and authority to impose assessments against its members from time to time. Such assessments and payment thereof shall be made in accordance with the Articles of Incorporation and Bylaws of the Association. The Association may impose assessments for the construction and maintenance of streets and roads in the Subdivision or providing access to the Subdivision for administration of the Water Plan for Augmentation, for construction and maintenance of any property, real or personal, owned, controlled or managed by the Association and for any other purpose authorized by the Association. Payment of such assessments shall be secured by a lien upon all property in the Subdivision owned by the member liable for such assessment. The Association may bring an action under Colorado law to foreclose the lien on such property.

4. **Architectural Control.** No structure, including walls and fences, shall be erected, converted, placed, added to or altered on any lot in the Subdivision until the construction plans and specifications and a plan showing the location of the structure has been approved in writing by the Architectural Control Board, formed by the Association, as to quality of workmanship and materials, harmony of external design with existing structures, topography near the area and finished grade elevation. If action to approve or disapprove plans as submitted is not taken within thirty (30) days, such plans shall be considered approved.

5. **Building Use and Type.** All lots not designated on the plat of the Subdivision as being for business, commercial, fire well or fire station sites use shall be restricted to residential use either as vacation homes or year round dwellings. Such structures shall be only single family dwellings and shall be for residential use only. Auxiliary buildings and structures usual to a residence may be erected or placed thereon. Not more than one dwelling shall be erected on any lot except that one guest house which shall consist of not less than 600 square feet on the ground floor level may be erected in addition to the main dwelling. Private stable, shed or animal shelter with no minimum dimensions shall be permitted provided such are not used for any commercial purposes. All building and other structures are subject to the approval required in Paragraph 4 above.

6. **Dwelling Size.** No dwelling shall be erected or placed on any lot unless such dwelling has a ground floor area of not less than 600 square feet exclusive of garages, carports, open porches, patios or court areas.

7. **Temporary Residences.** No basement, shed, tent, trailer or trailer house, or structure of a temporary nature may be used as temporary or permanent living quarters. This covenant does not preclude vacation camping in tents, trailers or campers for a period not to exceed thirty (30) continuous days.

8. **Building Location.** No building shall be erected nearer than fifty (50) feet to any street, or twenty-five (25) feet to any boundary line of any lot. In case of single ownership of more than one tract, this restriction shall apply to the parcel as a whole. For the purpose of this covenant, eaves, steps and open porches shall be considered as part of the building.

9. **Construction.** Once construction of any type of structure on a lot is started it must be completed within 12 months. Prior to commencement and occupancy, all necessary government permits shall be obtained and all governmental requirements shall be met.

10. **Fencing.** Fencing which is constructed on lot lines contiguous to road right of way as shown on the recorded plat of the Subdivision must be placed no further outward from the center of any lot than the interior easement line which is indicated by notes on said plat. Fences may be constructed on interior lot lines, except that in such case the lot owner shall be liable for expenses of damage, repair and replacement of such fencing as may be incurred by the installation of any utility systems. Any utility entity, either public or private shall have the right to breach any fencing or other obstructions located on a utility easement for purposes of construction and servicing without incurring any liability for damage thereto.

11. **Easements.** Easements for installation and maintenance of utilities, roadways, bridle paths, hiking trails, access and such other purposes incident to development of the Subdivision shall be reserved as shown by notes on the recorded plat of the Subdivision, and will be kept open and readily accessible for use, service and maintenance.

12. **Obstructions to Vision at Intersections.** No fence, wall, hedge, tree or shrub planting which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the inward line of the street easements, and a line connecting them at points twenty-five (25) feet from the intersection of the inward line of the street easements, or in the case of a rounded property corner from the intersection of the inward line of the street easements extended until they intersect. The same sight-line limitation shall apply on any portion of a lot within ten (10) feet from the intersection of a street easement line with the edge of a driveway or access road on any lot.

13. **Nuisance.** Nothing shall be done or permitted on any lot which may be or become an annoyance or nuisance to the neighborhood. No noxious or offensive activities shall be carried on upon any lot.

14. **Garbage and Refuse Disposal.** No part of any lot above or below ground shall be used or maintained as a dumping ground for rubbish, trash, garbage, debris or other waste. At all times the property shall be maintained in a sanitary condition. Reasonable precautions shall be taken against creating fire hazards and no outdoor burning of any kind shall be permitted in the Subdivision (except for cooking) unless in an approved incinerator with ash control, or specifically approved by the Association.

15. **Clothes Drying Area.** Outdoor clothes drying will be permitted only in the rear yard and in the case of corner lots must be not closer than sixty (60) feet from the nearest easement line for any street.

16. **Signs.** All signs displayed in the Subdivision must first be approved by the Association. This covenant does not prohibit the display of builders or realty-type signs, or small professional signs, not to exceed one (1) square foot in area per side. The Association reserves the right, however, to require

modification or removal of such signs if they are deemed not to be in keeping with the area and Subdivision décor.

17. **Water and Sewage.** All water wells and sewage disposal systems placed upon any lot must comply with the requirements of Custer County and the State of Colorado Health Department. No sewage tank or field system shall be nearer than fifty (50) feet from any lot line, except with the consent of the appropriate health official, and no sewage, waste water, trash, garbage or debris shall be emptied, discharged or permitted to drain into any body of water in or adjacent to the Subdivision. No outside toilets or privies shall be permitted on any lot. All toilet facilities must be part of the residence or garage and shall be of a flush type and connected to a proper sewage disposal system.

18. **Animals.** No animals, livestock or poultry of any kind shall be housed, raised or kept on any lot either temporarily or permanently, except that commonly accepted domestic pets may be kept provided they are not kept or maintained for any commercial purposes and except that one horse for each two acres of land owned may be kept for recreational purposes. No stables, corrals, or any structure for the housing or feeding of horses shall be located or placed closer than twenty-five (25) feet to any adjoining lot line nor closer than one hundred (100) feet to any road or street. All stables, corrals, or any structures for the housing or feeding of horses shall be approved as to location and design by the Association and shall be maintained in a sanitary condition. Horses, pets or any other animals authorized under this Declaration shall be treated humanely and shall be contained on the lot of their owners.

19. **Chimneys and Fireplaces.** All chimneys and fireplaces shall have a protective wire inside the chimney near the top to prevent any burning particles from escaping said chimney.

20. **Preservation of Natural Timber.** Live trees shall not be removed or damaged, except as required for on-site construction of buildings, streets, roads and driveways, conservation and control of soil erosion and clearing of easements. Live trees may be removed to enhance the view only upon approval of the Association.

21. **Hunting and Use of Firearms.** No hunting of any kind or discharge of firearms shall be permitted in the Subdivision.

22. **Fireworks.** The use of or discharge of fireworks of any kind in the Subdivision shall not be permitted.

23. **Driveways.** Culverts in conformance with the regulation of the Custer County Department of Roads, but in no event less than fifteen (15) inches in diameter, must be installed at road entrance driveways in all instances in which proper drainage would otherwise be obstructed.

24. **Drainage.** Nothing shall be done on any lot which will significantly obstruct or prevent the natural and/or proper flow of drainage.

25. **Storage.** Materials shall not be stored on any lot unless they are enclosed in a structure, except that building materials intended for use in the erection of a building or auxiliary structure on such lot may be kept in the open during the construction period, but not to exceed 12 months. No motor vehicle of any type shall be permitted to remain on the property in a non-operating condition for more than 30 days in any calendar year. Any vehicle which does not display current and valid license plates,

and any type inspection sticker required by state law, shall be deemed to be in a “non-operating condition.”

26. **Re-Subdividing.** Further division of lots as shown on the recorded plat of the Subdivision shall not be permitted. It is the intent of the Association to maintain a minimum lot size of approximately five (5) acres. In the event a lot owner in the Subdivision requests permission to re-subdivide his lot, and can show sufficient justification, the Association may grant such re-subdivision. Should such permission be granted, the re-subdivision must comply with all laws and ordinances of Custer County and the State of Colorado involving zoning, subdivision, water rights, and health and sanitation standards. In no event will the Association permit re-subdivision in any instance where the esthetic values, natural amenities and pollution and contamination control would be disregarded.

27. **Amendment of Declaration.**

(a) Except as provided in (c) below, Livingston Properties, Inc., Lawrence E. Livingston and Victoria Anne Livingston, their successors or assigns, expressly reserves the right:

(1) From time to time to amend or revoke this Declaration or any restrictive covenants then in existence, but no such amendment or revocation shall apply to lots that are sold prior thereto without the written consent of a majority of the then owners of any such lots.

(2) To enter into agreements with the grantee of any lot or lots (without the consent of the grantee of other tracts or adjoining or adjacent property) to deviate from those covenant conditions, reservations, limitations and restrictions set forth herein, and any such deviation which shall be manifested by agreement in writing shall not constitute a waiver of any such covenant, condition, reservation, limitation or restriction as to the remaining lots in the Subdivision.

(b) The Association may amend or revoke this Declaration or any restrictive covenants then in existence, provided the consent of 75% of the membership of the Association is obtained.

(c) This Declaration shall not be amended or changed in any manner with respect to water use, water supply or administration of the Water Plan for Augmentation without approval of the Water Court having authority over the Plan for Augmentation.

28. **Enforcement.** Enforcement shall be by proceedings at law or in equity by the Association against any person or persons violating or attempting to violate any covenant condition, reservation, limitation or restriction set forth herein, either to restrain violation or to recover damages. In any enforcement action by the Association, all costs incurred in such enforcement action, including reasonable attorney’s fees, shall be paid by the person or persons against whom the Association is bringing the action. The Association, its agents or assigns, further reserves the right, whenever there shall have been an obvious violation of one or more of the provisions of these covenant conditions, reservations, limitations or restrictions set forth herein, to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the owner and such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservation, restriction or condition contained herein, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to breach occurring prior to or subsequent thereto and shall not bar or affect its enforcement.

29. **Assignment by Livingston Properties, Inc., Lawrence E. Livingston and Victoria Anne Livingston.** Livingston Properties, Inc., Lawrence E. Livingston and Victoria Anne Livingston may assign

any and all their rights, powers, obligations and privileges under this Declaration to any corporation, association or person.

30. **Flood Plain.** A flood plain, as shown on the plat of the Subdivision, is hereby created, and any construction of a permanent nature in such flood plain is hereby prohibited. A variance from this covenant may only be granted by Custer County.

31. **Water.** Each residence may be served by a single unit well or more than one residence may be served by a multiple unit well. Each residence is restricted to the use of water for domestic, in-house use and for occasional livestock watering. Use of water for irrigation purposes is specifically prohibited. Each lot owner shall install a water meter or other measuring device that is satisfactory and acceptable to the Division Engineer for Water Division 2. Water use and water supply in the Subdivision shall be subject to the terms and conditions of the Judgment and Decree issued in Case No. 80CW9 by the District Court, Water Division No. 2, State of Colorado, on May 29, 1981.

32. **Waste Water Disposal.** All waste water disposal systems within the Subdivision shall be designed by a professional engineer registered in the State of Colorado. Each residence shall be equipped with a non-evaporative sewage disposal system.

33. **Structural Foundation.** All foundations of a permanent or temporary nature being constructed on an area in the Subdivision that has a slope greater than 30% shall be designed by a professional engineer registered in the State of Colorado.

34. **Severability.** In validation of any one of the covenant conditions, reservations, limitations or restrictions set forth herein, by judgment or court order shall in no way affect the validity of any of the other provisions which shall remain in full force and effect.

35. **Prior Declarations.** This Declaration hereby replaces and supercedes any and all prior protective covenants filed for record or established with respect to the real estate included in the Subdivision. All such prior protective covenants are considered void and of no effect.

EXECUTED this 31st day of January, A.D., 1984.

[signed] LIVINGSTON PROPERTIES, INC.
Victoria Ann Livingston
Lawrence E. Livingston

[notarized]