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**DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
PEPPERTREE ESTATES**

THIS DECLARATION is made on the date hereinafter set forth by RODO Land, Inc., a Colorado Corporation, which is hereinafter referred to as "Declarant."

WHEREAS, Declarant is the owner of certain property in Boulder County, Colorado, more particularly described as PepperTree Estates; and

WHEREAS, Declarant has caused the property to be divided into 30 lots, together with streets, roads, easements, Private Park/Detention Area and a dedicated public park; and

WHEREAS, Declarant will convey the property subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that all of PepperTree, except the Private Park/Detention Area and publically dedicated, (Property less exceptions hereinafter referred to as the "Property") shall be held, sold, conveyed, used, improved, occupied and resided upon subject to the following easements, restrictions, covenants, and conditions, and those other restrictions and conditions which are contained on the final plat of the PepperTree Subdivision, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These easements, covenants, restrictions and conditions shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall inure to the benefit of each owner thereof.

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**ARTICLE I  
DEFINITIONS**

SECTION 1. THE PROPERTY. "Property" shall mean and refer to all of that real property shown and described on the final plat for PepperTree P.U.D., with the exception of Private Park/Detention Area and publically dedicated portions.

SECTION 2. THE LOT. "Lot" shall mean a numerically designated building site shown upon the recorded subdivision map of the Property or any subsequently recorded replat of any portion of the Property.

SECTION 3. THE OWNER. "Owner" shall mean and refer to the record Owner, whether

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one or more persons or entities, of a fee simple title to any Lot, including contract buyers, but excluding those having such interest merely as security for the performance of an obligation.

**SECTION 4. THE DECLARANT.** "Declarant" shall mean and refer to RODO Land, Inc., its successors and assigns, if any such successors and assigns should acquire all unsold Lots from the Declarant for the purpose of development.

**SECTION 5. THE COMMITTEE.** "Committee" shall mean and refer to the Architectural Control Committee of the PepperTree Estates Homeowners Association which is established herewith.

**SECTION 6. THE ASSOCIATION.** "Association" shall mean and refer to the PepperTree Estates Homeowners' Association.

**SECTION 7. DESIGN GUIDELINES.** "Design Guidelines" shall mean the Design Guidelines and Rules of the PepperTree Estates Architectural Control Committee which are herein described.

## **ARTICLE II**

### **HOMEOWNERS' ASSOCIATION**

**SECTION 1. THE ASSOCIATION.** There is hereby established The PepperTree Estates Homeowners' Association, Inc. (hereinafter referred to as the "Association") which shall be composed of all persons, organizations, corporations or associations who are the owners of record and who pay real property taxes on Lots in PepperTree Estates. This organization, which is incorporated under the laws of the State of Colorado, operates under a separate, written set of bylaws. One purpose of this Association is to provide for the orderly development of and the continued orderly use of said Lots and Private Park/Detention Area for the mutual and reciprocal benefit of each and all Lot Owners and subsequent Owners through the enforcement of covenants, conditions and restrictions. One committee of the Association is the PepperTree Estates Architectural Control Committee whose responsibility it is to oversee the orderly development and continued orderly use of this property.

## **ARTICLE III**

### **ARCHITECTURAL CONTROL COMMITTEE**

**SECTION 1. THE COMMITTEE.** There is hereby established an Architectural Control Committee (hereinafter referred to as the "Committee") which shall be responsible for the

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establishment and administration of design guidelines and rules (hereinafter referred to as "Design Guidelines") and to otherwise carry out the purposes and intent of this Declaration.

The Architectural Control Committee shall be initially comprised of three or more officers or appointees of the Declarant. The Declarant shall continue to appoint the Committee as long as the restrictions, covenants and conditions herein set forth are in force and effect, however the Declarant may relinquish its powers to determine the number and members of the Committee at any time. Such relinquishment may be accomplished by recording a Declaration of such relinquishment in the office of the County Clerk and Recorder of said County of Boulder. After such relinquishment the members of the Committee shall be elected by a majority of the Owners of the Lots subject hereto. There shall be one vote per Lot. Election shall be held at such times, and terms of office shall be for such length, as the Association Members may determine by majority vote. In the absence of an Architectural Control Committee, or if the term of any member shall have expired without a replacement being appointed or elected, any Owner of a Lot subject hereto may call an election at a reasonably convenient time and place by written notice thereof mailed to all Lot Owners at least twenty (20) days in advance of the date of the proposed election.

Neither the members of the Committee nor its representatives shall be entitled to any compensation for services performed pursuant to this Declaration, except that certain experts may be called upon from time to time to help the Committee execute their duties. Any of these experts may be compensated for their services.

The power of Declarant to establish the number and members of the Architectural Control Committee shall expire on December 31, 1998, or when seventy (70) per cent of the Lots are sold, whichever occurs first.

**SECTION 2. PURPOSE OF THE COMMITTEE.** The Committee shall review, study and either approve or reject plans and specifications for proposed construction, reconstruction, remodeling, additions and alterations of structures, landscaping, fences and improvements (hereinafter referred to as "Improvements") proposed on the Property, all in compliance with this Declaration and as further set forth in the rules and regulations of the Committee and the Design Guidelines as may be adopted and established from time to time by the Committee.

(a) The Committee shall exercise its best judgment to see that all Improvements conform and harmonize with any existing structures as to external design, quality and type of construction, materials, color, location on the Lot, height, grade and finished ground elevation, and all aesthetic considerations herein set forth.

(b) No Improvement on the Property shall be erected, placed or altered on any Lot, nor shall any construction be commenced thereon until plans for such Improvement shall have been approved by the Committee; however, Improvements and alterations which are completely within a building may be undertaken without such approval.

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(c) The actions of the Committee in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties.

**SECTION 3. ORGANIZATION AND OPERATION OF COMMITTEE**

(a) Term. The term of office of each member of the Committee, subject to SECTION 1, shall be one year. Each term shall commence January 1 of each year, and shall continue until December 31 of the same year or until a successor shall be appointed. Should a Committee member die, retire, become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed as provided in SECTION 1. Committee members may serve an unlimited number of terms subject to SECTION 1.

(b) Chairman. So long as the Declarant appoints the Committee, the Declarant shall appoint the chairman. At such time as the Committee is elected by the Owners, the chairman shall be elected annually from among the members of the Committee by a majority vote of said members.

(c) Operations. The chairman shall take charge of and conduct all meetings and shall provide for reasonable notice to each member of the Committee prior to any meeting. Such notice shall set forth the time and place of said meeting, which notice may be waived by any member. In the absence of a chairman, the parties appointing or electing the chairman may appoint or elect a successor, or if the absence is temporary, a temporary successor.

(d) Voting. The affirmative vote of a majority of the members of the Committee shall govern its actions and be the act of the Committee. A quorum shall consist of a majority of the members.

(e) Expert Consultation. The Committee may avail itself of technical and professional advice and consultants as it deems appropriate, and may charge applicant for said costs in addition to the standard application fees. If the Committee deems it necessary to call upon the services of experts, they shall consult the applicant prior to incurring costs for such services to allow the applicant to modify or withdraw their application.

(f) Expenses. Except as hereinafter provided, all expenses of the Committee shall be paid by the Owners. The Committee shall have the right to charge a fee for each application submitted to it for review, in an amount which may be established by the Committee from time to time. Such fees shall be used to help defray the expenses of the Committee's operation and enforce the restrictions set forth herein.

**SECTION 4. DESIGN GUIDELINES AND RULES.** The Committee shall adopt, establish and publish, from time to time, Design Guidelines and Rules. Said Design Guidelines and Rules shall not be inconsistent with this Declaration but shall more specifically define and describe the design standards for PepperTree Estates and the various uses within the PepperTree Estates

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community. The Design Guidelines and Rules may also set forth rules and regulations including specific rules regarding construction methods. The Design Guidelines and Rules may be modified or amended from time to time by a majority of those Committee members voting either in person or by proxy at any meeting called for the purpose of said modification or amendment.

**All prospective Owners and builders are advised to contact the Committee to obtain the most current copy of the Design Guidelines and Rules.**

**SECTION 5. PROCEDURES.** The Committee shall make such rules and regulations as it may deem appropriate to govern its proceedings. Except to the extent modified or amplified in the Design Guidelines, the following general procedures shall apply:

(a) **Pre-Design Conference.** Builders, Owners, architects and others desiring to construct any Improvements on the Property are encouraged to meet with the Committee in a pre-design meeting, while plans are tentative and preliminary, in order to assure full understanding of the requirements of this Declaration and the Design Guidelines.

(b) **Schematic Plan.** A schematic plan satisfying the Committee's requirements shall be submitted to the Committee in order to obtain approval of the initial design following the pre-design conference, and shall be reviewed by the Committee within fourteen (14) days after submission. The Committee may approve, approve with conditions, or reject the schematic plan, and such approval and compliance with any conditions imposed shall be a precondition to the preliminary submittal.

(c) **Preliminary Submittal.** Initial plans, specifications and schedules, in such form and containing such information as may be required by the Committee, shall be submitted in writing to the Committee at the time of the preliminary architectural design of Improvements. The number of copies, the content thereof, and a reasonable filing fee shall be set forth in the Design Guidelines. The preliminary designs should include a preliminary construction schedule with an estimated date of completion for each phase of construction. The Committee reserves the right to require reasonable additional information from time to time to assist in its decisions. The preliminary submittal shall be approved, approved with conditions, or rejected within twenty one (21) days after receipt by the Committee of the necessary submittal and all information requested. Upon final approval or disapproval of the preliminary submittal by the Committee, written notice of said approval or disapproval will be given by the Committee according to its procedures. Should the Committee disapprove any preliminary submittal, it shall state the reasons for such disapproval with sufficient detail as to enable the submitter to understand the reasons for disapproval and what must be done in order to obtain approval. Preliminary submittals which have been disapproved may be resubmitted with necessary modifications or revisions in accordance with the notice of disapproval.

(d) **Final Submittal.** Final plans, specifications, and working drawings, in such form and containing such information as may be required by the Committee, shall be submitted in writing to the Committee for its approval after approval of the preliminary submittal. The

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Committee shall respond with its approval, approval with conditions, or disapproval within fourteen (14) days after receipt of all information required for the final submittal. If no response is given within said 14 day period, the party making the submittal shall notify the Committee, in writing, that no response has been received and if the Committee then fails to respond within fifteen (15) days of receipt of the non-response notice ( provided all necessary information has been submitted) the plans, specifications and drawings will be deemed to comply with the submittal requirements hereunder.

(e) Fast-Track Submittal. Any builder, Owner, architect, or other person desiring to construct any Improvements on the property and required to submit plans pursuant hereto may, at his option, be able to waive any of the steps set forth in paragraphs (a), (b) and (c) of this SECTION 3 and proceed directly to final submittal. The submitter shall, however, not be relieved of any requirements set forth herein as to the content of his final submittal. Further, any person submitting a plan who has not first complied with the pre-design, schematic and preliminary submittal process shall proceed to final submittal at his own risk and should be cognizant of this fact.

(f) Building Permit. Compliance with the PepperTree Estates design review process is not a substitute for compliance with Boulder County building, zoning and subdivision regulations and each Owner is responsible for obtaining all approvals, licenses and permits as may be required thereunder prior to construction commencement. In like manner, mere compliance with the Boulder County building codes may not conform to the requirements hereunder.

SECTION 6. HOLD HARMLESS. Neither Declarant nor any architect or agent of Declarant nor any member of the Committee by virtue of his membership thereon or discharge of his duties required thereby shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing, nor for any structural or other defects in any work done according to such plans or specifications.

SECTION 7. CONSTRUCTION AND ALTERATION OF IMPROVEMENTS. The right of an Owner, builder, or other entity to construct, reconstruct, refinish, alter or maintain any Improvement upon, under or above any of the Property (except as provided in paragraph (b) of SECTION 2) or to make or create any excavation or fill thereon, or to make any change in the natural or existing surface contour or drainage thereof, or install any utility line or conduit thereon or thereover, shall be subject to the Design Guidelines and to the general restrictions set forth herein.

Except to the extent permitted in SECTION 2(b), any construction or reconstruction, or the refinishing or alteration of any part of the exterior of any Building or other Improvement on the Property including fences and walls is absolutely prohibited until and unless the Owner or developer first obtains approval thereof from the Architectural Control Committee and otherwise complies with the provisions hereof. All Improvements shall be constructed only in accordance with approved plans.

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**SECTION 8. INSPECTION OF WORK/PROJECT COMPLETION REVIEW.**

(a) Inspection of completed work and correction of defects therein shall proceed as follows:

(1) Upon the completion of any Improvement for which approved plans or specifications are required under this Declaration, the Owner shall give written notice of completion to the Committee.

(2) 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 shall inspect such Improvement and notify the Owner, in writing, whether the work is approved. 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.

(3) If upon the expiration of thirty (30) days from the date of notification of noncompliance the Owner shall have failed to remedy such noncompliance, the Committee shall, upon notice and hearing, determine whether there is a noncompliance and, if the conclusion of the Committee is that 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 Committee ruling. If the Owner does not comply with the Committee ruling within such period, the Committee, at its option, may either remove the noncomplying Improvement or remedy the noncompliance, and the Owner shall reimburse the Committee for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Committee, the Committee shall levy an assessment against such Owner and the Improvement in question and the land upon which the same is situated for reimbursement and the same shall constitute a lien upon such land and Improvement.

(b) If for any reason after receipt of said written notice of completion from the Owner, the Committee fails to notify the Owner of its approval or disapproval and the reasons therefore, within the period provided above in paragraph (a) (2) of this SECTION 8, the Owner shall again notify the Committee, in writing, of the completion and if the Committee does not then give written notification of approval or disapproval within fifteen (15) days after receipt of the second notification, the Improvement shall be deemed to be in compliance with the approved plans and specifications.

**SECTION 9. ENFORCEMENT OF COVENANTS/VIOLATIONS DEEMED A NUISANCE.** Every violation hereof or of any of the Design Guidelines adopted by the Architectural Control Committee is deemed to be a nuisance and is subject to all the remedies provided for the abatement thereof. In addition, all public and private remedies allowed at law or equity against anyone in violation of these Covenants shall be available.

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(a) Compliance. Each Owner, or other occupant of any part of the Property shall comply with the provisions of these Covenants and the Design Guidelines and Rules, and as the same may be amended from time to time.

(b) Failure to Comply. Failure to comply herewith shall be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Reasonable notice and an opportunity for a hearing shall be given to the Owner prior to commencing any legal proceedings.

(c) Who May Enforce. Any action to enforce the Covenants and the Architectural Control Committee Design Guidelines may be brought by the Declarant or the Committee on behalf of the Owners. If, after a written request from an aggrieved Owner, none of the foregoing persons or entities commence an action to enforce the Covenants and the Architectural Control Committee Design Guidelines, then the aggrieved Owner may bring such an action.

(d) Remedies. See Article V.

(e) Non-exclusive Remedies. All the remedies set forth herein are cumulative and not exclusive.

(f) No Waiver. The failure of the Declarant, the Architectural Control Committee or any aggrieved Owner to enforce these Covenants and the Architectural Control Committee Design Guidelines shall not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of these Covenants and the Architectural Control Committee Design Guidelines at any future time. Further, no variances or adjustments of these conditions shall be deemed to be a waiver in any other instance.

(g) No Liability. No member of the Board, the Declarant, the Architectural Control Committee nor any Owner shall be liable to any other Owner for the failure to enforce any of these Covenants or the Architectural Control Committee Design Guidelines at any time.

(h) Recovery of Costs. If legal assistance is obtained to enforce any of the provisions hereof, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of or to restrain the violation of these Covenants and the Architectural Control Committee Design Guidelines, the prevailing party shall be entitled to recover all costs incurred by it in such action, including reasonable attorneys' fees as may be incurred, or if suit is brought, as may be determined by the court.

SECTION 10. VARIANCES. The Committee and/or Declarant shall have the right to waive and/or grant variances, both temporary and permanent from the covenants and restrictions set forth in this Declaration or in the Design Guidelines, if, in their reasonable discretion, such waiver or variance is warranted in a particular instance. No variances or waivers by the Committee or Declarant shall be granted where the result of such action would be contrary to or inconsistent with any applicable zoning ordinance, annexation or zoning



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agreement, or other governmental law, ordinance, rule or regulation, unless the prior consent hereto is granted by the appropriate governmental body or official. It is the intent of this SECTION 10 to allow the Committee to grant variances, without the consent of any Owner and without the necessity for an amendment to this Declaration or any exhibits hereto, with respect to all matters set forth herein. It is also understood that variances will only apply specifically to the matter in question. A variance need not be recorded in order to be effective.

**ARTICLE IV  
USE RESTRICTIONS**

**SECTION 1. RESTRICTIONS WHICH APPLY TO ENTIRE PROPERTY.** The following building restrictions and aesthetic standards are imposed uniformly on the Lots and the use thereof as a common scheme for the benefit of each Lot and may be enforced by the Architectural Control Committee or any Lot Owner. The standards set forth below are by way of example and not limitation.

(a) **Building Type.** Only one single family dwelling shall be permitted on Lots 1-27. For Lots 28, 29 and 30 one single family dwelling may be permitted or these lots may be used for other purposes which are permitted by right for Rural Residential zoning according to the Boulder County Zoning Resolution or which are permitted by special review for Rural Residential zoning according to the Boulder County Zoning Resolution after these uses have been approved by Boulder County.

(b) **Building Size and Height Limitations.** Every principal residence constructed on Lots 1-7 shall have not less than 1,500 square feet and Lots 8-30 shall have not less than 1,800 square feet of finished floor area devoted to living purposes (exclusive of roofed or unroofed porches, terraces, basements and garages). If a residence of more than one story is constructed, then the main floor shall have not less than 1,000 square feet for Lots 1-7 and 1,200 square feet for Lots 8-30 of finished floor area devoted to living space. Each Lot which is used for residential purposes shall have a garage of sufficient size to house not less than two cars; furthermore, there shall be constructed on each Lot, at time of construction of the principle residence and kept in place thereafter, paved off-street parking spaces (which may be a driveway on the Lot) sufficient for two cars in addition to the space in the garage. All driveways shall be paved. No vehicles shall be parked on any Lot except on the paved areas unless otherwise approved in writing by the Architectural Control Committee. Vehicles shall not be parked on any common driveway.

If Lots 28, 29 or 30 are used for purposes other than single family residential, building size, parking and other related requirements will be determined by the County.

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The maximum Structure Height on lots 1 - 7 shall be 27 feet measured from the finished grade on the high side of the building corner. Structure Height on all other sites shall be in compliance with the Boulder County Zoning Resolution.

(c) Building Location/Setbacks. No building shall be located on any Lot nearer to the Lot lines than shall be allowed by the applicable building and zoning laws of the County of Boulder; additionally, the front yard setback will be a minimum of 25 feet and the minimum rear yard setback will be 40 feet; the minimum side yard set backs for Lots 8-11 and 16-19 will be 7.5 feet and for all remaining lots will be a minimum of 15 feet. In all cases the location of any building shall be subject to the approval of the Architectural Control Committee.

(d) Landscaping. No landscaping or any subsequent change, alteration or modification of landscaping from that shown on any initially approved landscape plan, shall occur unless a landscape plan showing such landscaping or change, alteration or modification is submitted and approved in accordance with the procedures prescribed in SECTION 5 of Article III. Approval or disapproval of such landscaping plans shall be in the same manner as set forth in said SECTION. All landscaping shown on an approved landscaping plan shall be completed and installed within 12 months after substantial completion of the residential improvements on the Lot, or within six months after approval of plans depicting subsequent change, alteration or modification of landscaping from that shown on an initially approved landscape plan.

(e) Signs. No sign of any kind other than a name plate of the occupant and a street number shall be displayed to the public view without the approval of the Architectural Control Committee; except, however, that signs not more than three (3) feet by three (3) feet may be displayed on or from a residence advertising the Lot or a residence for sale or lease and except that Declarant may place property boundary marking signs and a subdivision sign. No flashing or moving signs shall be permitted on the Property.

(f) Trees. No tree or trees, whether now growing or hereafter grown upon any part of the Property shall be cut down or removed without prior written approval of the Architectural Control Committee; provided, however, that this restriction shall not apply unless such tree is more than two (2) inches in diameter as measured one (1) foot above the grade at the base of the tree, and provided further that this restriction shall not be construed to limit in any way reasonable trimming of any trees within the Property. This restriction shall not apply to any tree or trees grown for commercial purposes on lots 28, 29 or 30.

(g) Temporary Structures. No temporary house trailer, tent, garage or outbuilding shall be placed or erected upon any part of the Property and no residence placed or erected on any Lot shall be occupied in any manner at any time prior to its being fully completed in accordance with approved plans nor shall any residence when completed be in any manner occupied until there is compliance with all requirements, conditions, covenants and restrictions herein set forth and with the Design Guidelines; provided, however, that during the actual construction or alteration of a building on any Lot, reasonable and necessary temporary buildings for storage of materials may be erected and maintained by the person doing such work.

Such temporary storage buildings shall be removed upon completion of the construction, alteration or remodeling. The work of constructing, altering and remodeling any building on the Property shall be prosecuted diligently from its commencement and completed in accordance with the work schedules submitted to the Architectural Control Committee in no event later than one year from commencement. Provided further, that so long as Declarant remains the owner of any Lot, Declarant may place upon the Property a sales office or sales trailer to be used in conjunction with the marketing of any Lot within PepperTree Estates.

(h) Trash and Debris. All trash, garbage or other refuse shall be kept in a fully enclosed area. Each Owner must provide for regular removal of garbage, and each Lot at all times shall be kept in a clean, sightly, and wholesome condition and weeds shall be kept mowed. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any Lot so it is visible from any neighboring Lot, road or street, except as reasonably necessary during the period of construction. No clotheslines, drying yards, service yards, or storage areas shall be located as to be visible from any neighboring Lot, road or street. In the event any structure is destroyed either wholly or partially by fire or other casualty, said structure shall be promptly rebuilt or remodeled to conform to this Declaration and all debris and remaining portions of the structure including the foundations shall be promptly removed from the Property. No noxious or offensive activity shall be carried on upon the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

(i) Boats, Trailers, Campers, Etc. Boats, trailers, campers, wrecked or currently unlicensed or inoperable cars, tractors, equipment, etc., shall not be kept or stored on any Lot unless approved, in writing, by the Architectural Control Committee. No vehicle, motorcycle, motorbike or similar equipment shall be parked on any Lot or street adjacent thereto while it is undergoing repairs which immobilize the vehicle for a period of more than two consecutive days, unless the vehicle (or other item undergoing repairs) is within an enclosed garage during the entire period of such repairs.

(j) Underground Utilities - Antennae. All electric, television, radio and telephone line installations and connections from the Owner's property line to the residence shall be placed underground. All antennae must be specifically approved by the Architectural Control Committee unless contained within the structure and not exposed to public view. No aerial masts shall be allowed. Elevated tanks of any kind shall not be erected, placed or permitted upon any part of said property without prior written consent of the Architectural Committee, except that such tanks may be placed on any lot for use in connection with construction of a building thereon. Any tanks for use in connection with any residence constructed on said property, including tanks for the storage of gas, or oil, will ordinarily be required to be below ground. (Note: said underground storage tanks may be subject to other federal, state or local regulations). All types of refrigerating, cooling or heating apparatus must be concealed in a manner which has the prior written approval of the Architectural Committee. No overhead utility lines shall be installed or maintained on any portion of the Lots covered by these restrictions, except that during the construction of a residence the contractor or builder may install a temporary overhead utility

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line which shall be promptly removed upon completion of construction.

(k) Animals. No cattle, sheep, goats, pigs, rabbits, poultry, or other animals of any description shall be kept or maintained on any part of said Lots except that residents may keep bona fide and customary household pets so long as such pets are not kept for commercial purposes and do not make objectionable noises or otherwise constitute a nuisance or inconvenience to any of the residents of adjacent Property. No horses are allowed except on Lots 28, 29 and 30.

(l) Fireplace. No coal or other type of fuel which gives off smoke except wood shall be used for heating, cooking or any other purposes and no trash or garbage shall be burned on the premises.

(m) Lighting. Each Owner shall provide and maintain at least one gas or electric post at or near the street property line. Said light shall be operated and lighted by a photo-electric cell or other automatic device so that it will be lighted automatically during hours of darkness. The design of the light post and the amount of light emitted therefrom shall be approved by the Architectural Control Committee prior to its installation.

(n) Storm Drainage. The Owner of each Lot shall maintain and keep free of obstructions any storm drainage channel or passageway across his Lot.

(o) Ditches and Easements. Each owner shall be aware that the ditches, ditch easements and drainage easements on the Property are for purposes of constructing and maintaining ditches which will allow a free flow of water. No owner may construct any improvements in any easements nor may any obstructions be placed in the ditches. Further, no owner shall divert any water from any ditch and no owner shall have any claim or right to any water within any ditch. The Star Ditch Company, its successors and assigns, on our Property has the right to move certain equipment within the ditch easements for maintenance purposes. It shall not, however, be liable for any claims at law or equity arising from seepage or overflow from the ditches onto adjacent real property.

Furthermore, subdivision drainage ditches adjacent to all roads in the subdivision must be planted in grass and maintained (including mowing) by the adjacent Property Owner. No irrigation piping or sprinkler heads may be located within the drainage ditch easements.

(p) Discharge of Firearms Prohibited. No fire arms will be discharged within the subdivision. Fire arms as used herein shall be construed to mean rifles, shotguns, pistols, cannons, air rifles, BB guns, pellet guns, bow and arrows or similar devices.

(q) Fences. Fencing is heartily discouraged and its placement and type is strictly controlled by the Architectural Control Committee through the Design Guidelines. Owners or would be Owners are referred to that document for further information.

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**ARTICLE V  
GENERAL PROVISIONS**

**SECTION 1. Severability.** In the event that any one or more of the provisions, conditions, restrictions, and covenants herein set forth shall be held by any Court of competent jurisdiction to be null and void, all remaining provisions, conditions, restrictions and covenants herein set forth shall continue unimpaired and in full force and effect.

**SECTION 2. Effect.** Each grantee of a Lot or property included within this Declaration, by acceptance of a deed conveying any of the Lots or properties, shall accept title thereto upon and subject to each and all of the restrictions, conditions, covenants and agreements herein contained and by the Design Guidelines, and by such acceptance, shall for himself, his heirs, personal representatives, successors and assigns, covenant, agree and consent to and with the grantees and subsequent Owners of each of said other Lots, to keep, observe, comply with and perform said restrictions, covenants, conditions and agreements and each thereof. Said restrictions, covenants and agreements and the Design Guidelines are intended and imposed for the direct, mutual and reciprocal benefit of each and all of said Lots and subsequent Owners thereof, and to create mutual and equitable servitudes upon each of said Lots in favor of each other Lot, and reciprocal rights and obligations and privity of contract and estate between the grantees of said Lots, their respective heirs, successors and assigns.

**SECTION 3. Covenant for Assessments.** The Owner(s) of each Lot within PepperTree Estates, by accepting the deed to his Lot, for himself, his heirs, administrators, personal representatives, successors and assigns agrees to pay and shall be responsible and liable for the payment of, annually, or such other time or times as may be determined by the Board of Directors of the Association, his pro rata share of a) the cost of improvements, maintenance, repair, payment of taxes, and any other costs relating to operations or maintenance of the Private Park/Retention Area and/or other common areas shown on the recorded plat or plats of the PepperTree Estates Subdivision, Boulder County, Colorado and; b) costs which may reasonably be incurred in connection with enforcement of these covenants, except that Declarant is not responsible nor will be held liable for payment of such Assessments as long as he holds title to Lots within the Subdivision. The costs above referred to shall be allocated among the Owners of Property within the subdivision on a per Lot basis. The maximum annual assessment for each Lot shall be \$50.00 per Lot, unless a change in said amount is agreed to by the owners of two-thirds (2/3) of all residential Lots in the subdivision.

**SECTION 4. LIEN AND PERSONAL OBLIGATION FOR ASSESSMENT.** Annual assessments together with such interest therein and costs of collection thereof as hereinafter provided, shall be and constitute a continuing lien upon the property against which each such assessment is made. In addition, each such assessment shall be a personal obligation of the person(s) who is

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the Owner of such Property at the time the assessment is made, provided that this personal obligation shall not pass to successors in interest unless expressly assumed by them. If an assessment is not paid within thirty (30) days from the date of notification thereof has been provided to the property owner, such assessment shall become delinquent and shall bear interest at the rate of twelve (12%) per annum from such due date. The Association shall file in the office of the Boulder County Clerk and Recorder, within ninety (90) days after the date such delinquency occurs, a written statement as to the amount of the delinquent assessments together with interest thereon. In the event such delinquency is paid in full, the Association shall execute and file a proper release of such lien. Such assessment, with interest as provided, shall constitute a lien on the Lot, from and after the date of filing notice of delinquency and until the lien is released. Without in any way limiting the foregoing remedy, the Association may bring an action at law to enforce payment of a delinquent assessment against the owner personally responsible therefor. The lien here provided may be enforced in the manner provided by law with respect to liens on real property. In the event the Association should prevail in any action to enforce payment, the Owner shall be liable for the Association's court costs and disbursements together with reasonable attorneys' fees, and all such costs, disbursements and fees shall be further secured by the lien herein provided. An Owner may not waive or otherwise escape liability for the assessment above provided by non-use of the common areas, recreation areas or abandonment of his Lot. At the discretion of the Homeowners' Association such liens can be removed without payment in the event that an Owner goes into bankruptcy or otherwise becomes insolvent.

**SECTION 5. REMEDIES FOR ENFORCEMENT OF COVENANTS.**

A. Summary Abatement. In addition to any other remedies set forth herein violation of these Covenants and the Architectural Control Committee Design Guidelines shall give to the Committee or the Declarant, on behalf of the Owners, the right to enter upon the offending premises or take appropriate peaceful action to abate, remove, complete, modify or replace, at the expense of the offending Owner, any structure, thing or condition that may exist thereon contrary to the interest and meaning of these Covenants and the Design Guidelines; neither the Association, Committee or their agents, assigns or designees shall be deemed guilty in any manner of trespass for such entry, abatement, removal, completion modification or replacement, and by acceptance of a deed subject to these covenants, the owner of any Lot expressly consents to such entry and action. The cost of expenses of such entry abatement, removal, completion, modification or replacement shall be and remain a lien upon the Lot, by recording a written statement in the office of the Boulder County Clerk and Recorder. All such work shall be assessed against the Owner and may be enforced in any manner provided by law.

B. Judicial Enforcement. Without limiting the foregoing remedy, if any Owner shall suffer or permit a violation or threaten to violate any covenant or Design Guideline, the Association, the Committee or any other Owner in the subdivision may institute proceedings at law or equity to enforce the provisions of this instrument, to restrain the person violating or threatening to violate them and to recover damages, actual and punitive, together with reasonable attorneys' fees for such violation. Failure of the Association, Committee or any

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**Covenants, Conditions and Restrictions of  
Pepper Tree Estates Subdivision  
Nivot, Colorado**

Owner to enforce any covenant, restriction or Design Guideline shall in no event be deemed a waiver of the right to do so thereafter.

**SECTION 6. DURATION AND AMENDMENT.** The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, by the Committee, or by the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless terminated as hereinafter provided. The covenants and restrictions of this Declaration may be amended or terminated by a written, recorded instrument signed by the Owners of not less than two-thirds (2/3) of the Lots, provided, however, that any such amendment must also be signed by Declarant if Declarant is, at the time, the Owner of any Lot within the Property and further provided that Article IV, SECTION 1 (p) may not be terminated or amended without the written consent of the Star Ditch Company. A certificate signed and acknowledged by the County Assessor of the County of Boulder or by an abstractor or title company doing business in Boulder County that any such instrument has been signed by the then Owners of not less than seventy-five percent (75%) of such Lots shall be deemed prima facie evidence that such instrument has been signed by the Owners of the required number of Lots.

**Signatures Contained on Next Page**

**Covenants: Conditions and Restrictions of  
Pepper Tree Estates Subdivision  
Niwot, Colorado**

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In witness whereof, the undersigned, being the Declarant herein and the owners, execute this Declaration this 17 day of April, 1989.

RODO Land, Inc.,  
a Colorado Corporation

By:

ATTEST:

Robert G. White  
Robert G. White  
President

4-19-89  
Date

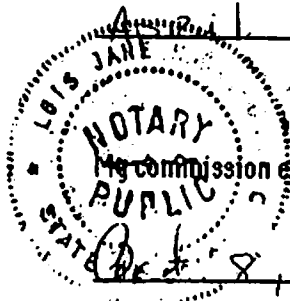
Donald R. White  
Donald R. White  
Secretary

4-19-89  
Date

State of Colorado     )  
                                  ) ss  
County of Boulder     )

The foregoing instrument was acknowledged before me this 17 day of

April, 1989, by Benjamin Harris.



My commission expires:  
Dec 8, 1991

Notary Public  
Address: P.O. Box 340  
102 Second Ave  
Niwot, Colo 80544