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### TRAIL SYSTEM AGREEMENT

This **Trail System Agreement** (herein, together with all future amendments, supplements and restatements of this Trail System Agreement, collectively referred to as the "Agreement") is entered into by and between **Gurley Lake Ranch Owners Association, Inc.**, a Colorado non profit corporation whose address is 9027 Hunter Valley Lane, Knoxville, TN 37922 (herein, "Gurley Lake Ranches HOA"), **North Gurley Reserve Owner's Association, Inc.**, a Colorado non-profit corporation, whose address is 9027 Hunter Valley Lane, Knoxville, TN 37922 (herein, "North Gurley Reserve HOA"), **Gurley Canyon Ranch Owners' Association, Inc.**, a Colorado non profit corporation whose address is 9027 Hunter Valley Lane, Knoxville, TN 37922 (herein, "Gurley Canyon Ranch HOA"), **Gurley Lake Land and Cattle Company**, a Colorado general partnership whose address is 9027 Hunter Valley Lane, Knoxville, TN 37922 (herein, "GLLCC"), **Lone Cone Properties, LLC**, a Colorado limited liability company, whose address is 9027 Hunter Valley Lane, Knoxville, TN 37922 (herein, "LCP"), and **Lone Cone Land, LLC**, a Colorado limited liability company whose address is 9027 Hunter Valley Lane, Knoxville, TN 37922 (herein, "LCL") as of the date set forth in the acknowledgement to each parties signature, but effective as of June 15, 2006 (the "Effective Date"), for the purpose of creating a license to use the recreational facilities of the three developments in San Miguel County commonly known as 'Gurley Lake Ranches', 'North Gurley Reserve' and 'Gurley Canyon Ranch' (said developments being more particularly described below by reference to their plats and declarations), upon the terms and as set forth below.

#### WITNESSETH:

**WHEREAS**, On August 1, 1997, the GLLCC caused a certain plat entitled Gurley Lake Ranches, Filing 2 recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado in Book PL-1 at page 2263, as modified by an Affidavit of Correction recorded on April 2, 2003 in the office of the County Clerk and Recorder of San Miguel County, State of Colorado at Reception # 356228 (herein the "Gurley Plat-Filing 2" and the lands which are the subject thereof are herein called the "Gurley Lake Ranches"); and

**WHEREAS**, On August 1, 1997, the GLLCC, as the 'Declarant', caused a certain Declaration of Covenants, Conditions, Restrictions and Easements for Gurley Lake Ranch to be recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado in Book 584, page 896 at Reception #313680, as amended by a certain Amendment #1 To Declaration Of Covenants, Conditions, Restrictions And Easements For Gurley Lake Ranch dated October 20, 2006 and recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado at Reception #387723 (said declaration as so amended, and as may be amended in the future, is herein called the "Gurley Lake Declaration"), which subjects the Gurley Lake Ranches to all of their terms and provisions; and

**WHEREAS**, On March 13, 2003, the LCP caused a certain plat entitled North Gurley Reserve to be recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado in Book PL-1 at page 3114, Reception Number 355766 (herein the "NGR Plat Filing-1"); and

**WHEREAS**, On February 15, 2005, the LCP caused a certain plat entitled North Gurley Reserve Filing 2 to be recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado in Book PL-1 at page 3444, Reception Number 372539 (herein the "NGR Plat Filing-2"); and

**WHEREAS**, On December 16, 2004, the GLLCC caused a certain plat entitled North Gurley Reserve Filing 3 to be recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado in Book PL-1 at page 3408, Reception Number 371114 (herein the "NGR Plat Filing-3"; herein the "NGR Plat Filing-1", the "NGR Plat Filing-2" and the "NGR Plat Filing-3" are sometimes collectively referred to as the "NGR Plat" and the lands which are the subject thereof are herein collectively called the "North Gurley Reserve"); and

**WHEREAS**, On February 7, 2007, the LCP, as the 'Declarant', together with the other lot owners, caused a certain Amended and Restated Declaration Of Covenants, Conditions, Restrictions And Easements For North Gurley Reserve to be recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado at Reception # 390144 (said declaration which amends and restates all previous declarations and amendments, and as may be amended in the future, is herein called the "North Gurley Reserve Declaration"), which subjects the North Gurley Reserve to all of its terms and provisions; and

**WHEREAS**, On November 22, 2004, LCL and other lot owners caused a certain plat entitled Gurley Canyon Ranch, to be recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado in Book PL-1 at page 3398 (herein the "Gurley Canyon Plat" and the lands which are the subject thereof are herein called the "Gurley Canyon Ranch"); and

**WHEREAS**, On January 24, 2006, the LCL, as the 'Declarant', and other lot owners, caused a certain Declaration of Covenants, Conditions, Restrictions and Easements for Gurley Canyon Ranch to be recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado at Reception #381004 as amended by a certain Amendment #1 To Declaration Of Covenants, Conditions, Restrictions And Easements For Gurley Canyon Ranch dated March 3, 2006 and recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado at Reception #382895 (said declaration as so amended, and as may be amended in the future, is herein called the "Gurley Canyon Declaration"), which subjects the Gurley Canyon Ranch to all of their terms and provisions; and

**WHEREAS**, On October 23, 2006 GLLCC and Gurley Lake Ranches HOA caused a certain Declaration of Recreational Facilities Use to be recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado at Reception # 387722 whereby the owners of the three tracts as delineated on that certain plat entitled Gurley Lake Ranches Unit 1 recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado in Book PL-1 at page 1982 (herein the "Gurley Plat-Unit 1" and the lands which are the subject thereof being herein called the "Gurley Lake Ranches-Unit 1") were extended certain benefits regarding the use of the recreational facilities in the Gurley Lake Ranches, all as more particularly described therein; and

**WHEREAS**, On May 14, 2003 GLLCC caused a certain Trail Easement to be recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado at Reception #357228 (herein the "Lot 32 Easement Agreement") whereby an easement for recreational uses was created along specified portions of Lot 32 of the Gurley Lake Ranches (herein the "Lot 32 Easement Parcel"), all as more particularly described therein; and

**WHEREAS**, On October 16, 2003 GLLCC and LCP caused two agreements with James M. Young and Juanita F. Young (herein collectively the "Youngs") entitled respectively Boundary Line and Recreation & Grazing Easement Agreement and Boundary and Easement Agreement to be recorded in the office of the County Clerk and Recorder of San Miguel County, State of Colorado respectively at Reception #361183 and Reception #361182 (herein collectively the "Young Agreements") whereby, *inter alia*, certain easements for recreational use were created, all as more particularly described therein; and

**WHEREAS**, certain recreational easements have been created respectively in (i) the Gurley Lake Ranches by virtue of the Gurley Lake Declaration and the Gurley Plat-Filing 2, (ii) the North Gurley Reserve by virtue of the North Gurley Reserve Declaration and the NGR Plat and (iii) the Gurley Canyon Ranch by virtue of the Gurley Canyon Declaration and the Gurley Canyon Plat (sometimes herein, the aforesaid declarations and plats are collectively referred to as the "HOA Documents"), all as more particularly described in the respective documents and plats; and

**WHEREAS**, the parties wish to create a comprehensive trail system by combining the rights and privileges under the Lot 32 Easement Agreement, the Young Agreements and the various recreation easements under the HOA Documents for the use by the "Benefited Parties" (as defined below) in the Gurley Lake Ranches, Gurley Lake Ranches-Unit 1, the North Gurley Reserve and the Gurley Canyon Ranch,

**NOW THEREFORE**, for and in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

## ARTICLE I DEFINITIONS

**Section 1.1** "Benefited Parties" means lot owners of lots in the Gurley Lake Ranches, Gurley Lake Ranches-Unit 1, the North Gurley Reserve and the Gurley Canyon Ranch as well as the Gurley Lake Ranches HOA, the North Gurley Reserve HOA and the Gurley Canyon Ranch HOA; and all such other owners of lots or property and any relevant home owners associations that may be brought into the trail system by North Gurley Reserve HOA and Gurley Lake Ranches HOA acting together by a recorded instrument; the heirs, successors and assigns of all of the forgoing and the family members, guests, tenants and invitees of all of the foregoing, provided however, to the extent any lot owner or tenant is operating any kind of commercial operation, the customers and business guests and invitees of such owner are not included within the term "Benefited Parties", and provided further that all guests and invitees must at all times be accompanied by the family member of a lot owner or tenant.

**Section 1.2.** "Rules and Regulations" means the rules and regulations contained in the respective declarations and otherwise promulgated by each homeowners association regarding the use of their respective parts of the Trail System (as that term is defined below), plus (i) rules and regulations contained herein and such additional rules and regulations as may be adopted by all of the homeowner's associations party hereto in connection with the use of the Trail System created hereby, (ii) the provisions of the Young Agreements, including without limitation, the restrictions in the 'Conservation Agreement' (as defined in the Young Agreements), (iii) the provisions of the Lot 32 Easement Agreement, and (iv) all applicable provisions of any statute, law rule or regulation of any governmental authority that may have jurisdiction over all or any portion of the Trail System created hereby. Moreover use of the Gurley Lake dam, Gurley Lake and fishing in Gurley Lake are subject to rules and regulations promulgated by Farmers Water Development Company directly or by the terms of the lease from Farmers Water Development of the fishing and lake use.

**Section 1.3.** "Trail & Recreation Parcels" means with respect to (i) the Gurley Lake Ranches, the portions of the 'Private Access Easements', the 'Common Open Space', the 'Open Space Easement' and the 'Gurley Elk Reserve' (the four preceding terms being defined in the Gurley Lake Declaration and shown on the Gurley Plat-Filing 2) and the Lot 32 Easement Parcel designated by the Gurley Lake Ranches HOA as being a part of the trail system, (ii) Gurley Lake Ranches-Unit 1, the portions of the "Lake Access Easement" as so designated on the Gurley Plat-Unit 1 (iii) the North Gurley Reserve, the portions of the 'Hiking and Horseback Riding Easement' (as defined in the North Gurley Reserve Declaration and shown on the NGR Plat), (iv) the properties covered by the Young Agreements, the 'Connecting Easement Parcels' and the 'Recreation Trail Easement Parcels' (the preceding two terms being defined respectively in the Young Agreements) and (v) the Gurley Canyon Ranch, the portions of the 'Hiking and Horseback Riding Easement' (as defined in the Gurley Canyon Declaration and shown on the Gurley Canyon Plat). Use of Gurley Lake is subject to the terms of a lease from Farmers Water Development Company and use of Gurley Dam is subject to the

rules and regulations that may be promulgated by Farmers Water Development Company.

**Section 1.4. "Trail & Recreation Rights"** means the rights and privileges granted herein to use (i) the Trail & Recreation Parcels for hiking, horseback riding, skiing and other non-motorized recreational uses; while motorized vehicles are generally prohibited, pick up trucks, ATVs and snowmobiles may be used in connection with maintenance of the trails and the maintenance, repair and replacement of fences and gates on or adjacent to the Trail & Recreation Parcels, and (ii) to use designated portions of the Trail & Recreation Parcels for picnicking and fishing. These rights are intended to be a license and while they are intended to continue indefinitely, they may be terminated by agreement or as provided for herein below.

**Section 1.5. "Recreation Board"** means the board consisting of one member from each of the participating homeowner's associations, to be designated as provided below in Article III below, charged with the responsibility of administering the provisions of the Agreement, including without limitation, the conducting of hearings as may be held pursuant to the provisions of Article IV below.

## **ARTICLE II THE TRAIL SYSTEM**

**Section 2.1. The Trail System.** Subject to the provisions of this Agreement and the Rules and Regulations, each of Gurley Lake Ranches HOA, North Gurley Reserve HOA, and Gurley Canyon Ranch HOA, joined in by the respective developers of the projects, namely GLLCC, LCP and LCL, hereby grant a license to the Benefited Parties of the Trail & Recreation Rights over and upon the Trail & Recreation Parcels (herein sometimes called the "Trail System"). Use of the Trail System by anyone other than a Benefited Party shall constitute a trespass which may result in criminal and/or civil consequences. Each of the Benefited Parties shall be deemed to have accepted the terms, agreements, covenants and conditions of this Agreement by virtue of their use of portions of the Trail & Recreation Parcels located on portions of the Trail System other than that that is owned or controlled by their respective homeowner's association.

**Section 2.2. Picnicking and Fishing.** Picnicking may only be conducted at the locations and during the times reflected in the Rules and Regulations. Fishing and use of the Gurley Lake by Benefited Parties other than the lot owners of Gurley Lake Ranches or Gurley Lake Ranches-Unit 1 requires purchasing a fishing permit from locations or persons designated from time to time by Gurley Lake Ranches HOA.

**Section 2.3. Notice.** The recording of this instrument in the real property records of the office of the County Clerk and Recorder of San Miguel County, State of Colorado shall serve as notice to all lot owners, who in turn shall have the obligation to advise all of their tenants and guests of the provisions hereof regarding the use of the Trail System.

**Section 2.4. Responsibility for Tenants and Guests.** For the purposes of the Agreement, a given lot owner shall be fully responsible for the conduct of its tenants and guests, including all fines, prohibitions, suspensions of rights, and other remedial remedies that may result as the consequence of the conduct and use of the Trail System by their respective tenants and guests.

**Section 2.5. Rules and Regulations.** By the action of a majority of the members of the Recreation Board, the Rules and Regulations may be amended, deleted or otherwise altered, to become effective 30 days after adoption, during which period, each respective homeowners association shall be responsible to serve notice to each of its lot owners. Each respective homeowners association may, from time to time, make additions, deletions and other alterations in the portions of their part of the Trail & Recreation Parcels and in their rules and regulations (constituting a portion of the Rules and Regulations) regarding the use of their portion of the Trail System. Notwithstanding the foregoing, but subject to the withdrawal provisions of Article VI below, such changes by the homeowners associations shall not cutoff access to the connecting portions of the Trail System and shall not purport to alter the definition of Benefited Parties except to bar certain individuals from the use of their portion of the Trail System as the result of disciplinary actions taken after notice and the holding of a hearing where the accused is permitted to participate and present evidence.

**Section 2.6. Violations by a Benefited Party.** In the event that any (i) Benefited Party, (ii) member of the Recreation Board or (iii) person engaged by the Recreation Board to monitor and/or enforce the provisions hereof, observes a violation of any Rules and Regulations by a Benefited Party, they may first remind the offending Benefited Party of the Rule and Regulation being violated, and in the event that the violation is repeated or continues, such a violation shall be reported to the homeowners association where the violation occurred, or in the event the violation occurred on the portion of the Trail System made up of either the Connecting Easement Parcels or the Recreation Trail Easement Parcels (as those terms are defined in the Young Agreements), the violation may be reported to either the Gurley Lake Ranches HOA or the North Gurley Reserve HOA. The complaint shall be the subject of a hearing where the accused has the opportunity to participate and present evidence. In the event where there are repeated violations, egregious violations or other circumstances deemed relevant by a homeowner's association, the matter may be referred to the Recreation Board. Moreover, in the event that a homeowner's association fails to hold a hearing or to render a judgment in a matter within a reasonable time (as determined by the Recreation Board) after a complaint is filed, the Recreation Board may take over the matter, conduct hearings as provided for below, and render a judgment.

**Section 2.7. Violation by persons other than Benefited Parties.** Use of the Trail System by persons other than Benefited Parties is a trespass, as is the use of the Trail System by a Benefited Party that is subject to a suspension order, and if observed by any (i) Benefited Party, (ii) member of the Recreation Board or (iii) person engaged by the Recreation Board to monitor and/or enforce the provisions hereof, whether there is a violation of any Rules and Regulations or not, then the trespasser should be informed of



the trespass, and in the event that the violation is repeated or continues, such a situation may be reported to law enforcement authorities directly, or may be reported to the homeowners association of the effected lands or the Recreation Board who in turn may contact law enforcement authorities for appropriate action. Under these circumstances the complainant for legal action may be by either ,the Benefited Party, the homeowner's association or the Recreation Board any of which may take criminal and/or civil actions because of the trespass.

**Section 2.8. Maintenance and Repairs.** Each respective homeowner's association shall be responsible for the maintenance and repair of their portions of the Trail System. The Recreation Board shall establish maintenance standards and make suggestions to each association as to activities needed on their portion of the Trail System. The homeowner's associations may collectively determine that the Recreation Board should undertake this responsibility, but when they do so, they must agree on the division of costs and must furnish the funds to the Recreation Board in advance of the Recreation Board commencing the work.

**Section 2.9. Insurance.** Each homeowner's association shall maintain liability insurance for their portions of the Trail system, naming the participating associations as additional insureds. The Recreation Board shall from time to time determine the amounts and other aspects of this coverage. If a homeowner's association fails to keep such a policy in full force and effect, the Benefited Parties of that association may not use the Trail System until the insurance is put in place.

### ARTICLE III POWERS AND DUTIES OF THE RECREATION BOARD

**Section 3.1. Appointment to Recreation Board.** Each participating homeowner's association shall appoint a member to serve on the Recreation Board for such periods as may be determined by the appointing association. The members of the Recreation Board shall elect a chairman from among themselves to serve for a calendar year term. When a vacancy occurs, the homeowner's association shall promptly appoint a successor.

**Section 3.2. Powers.** The Recreation Board shall have and may exercise all the powers conferred by the Agreement. In addition to its general powers, the Board shall have the authority, acting by a majority of the members of the Recreation Board (subject to any and all limitations upon such powers as set forth in the Agreement) to:

- (a) Subject to the provisions of Section 6.1 below, adopt and publish rules and regulations (comprising a part of the Rules and Regulations) governing the use of the Trail System or any portion thereof, and any improvements of facilities thereon made by the Recreation Board with the permission of the affected homeowner's association, and the personal conduct of the Benefited Parties, and to establish penalties for the infraction thereof;

(b) Levy fines and/or suspend or terminate the rights of a Benefited Party to use the Trail System, after notice and hearing as provided herein for infraction of published Rules and Regulations.

(c) Enter into, make, perform or enforce contracts, licenses, leases and agreements of every kind and description as may relate to the maintenance and repair of any portion of the Trail System provided however, no such agreements shall be let unless (i) all the homeowner's associations agree to centralize the maintenance and repair of the Trail System agreeing to pay their agreed share or (ii) a homeowner's association fails for a period of 60 days to effect maintenance or repairs to their portion of the Trail System after notice by the Recreation Board of the necessity to undertake such maintenance or repairs, the costs and expenses in the latter case being assessed against the non-responsive homeowner's association.

(d) Declare the office of a member of the Recreation Board to be vacant in the event such member shall be absent from two (2) meetings of the Recreation Board during any two-year period;

(e) Employ a manager, an independent contractor, or such other employees as they deem necessary, and prescribe their duties, provided that the homeowner's associations have agreed in advance to their shares of the cost and expense and have advanced the funds in advance on a quarterly basis; and

(f) Provide for notice and hearing in compliance with the provisions of the Agreement, through promulgation of procedures therefore.

**Section 3.3. Duties.** It shall be the duty of the Recreation Board to:

(a) Cause to be kept a complete record of all its acts and present a statement thereof to the homeowner's associations on an annual calendar year basis; and

(b) Supervise all officers, agents, and employees of the Association, and see that their duties are properly performed.

(c) Give notice and hold hearings in accordance with the procedures established herein when a complaint for a violation is filed with, or transferred to, them;

(d) Upon the completion of a hearing, to make findings and determine and levy fines and penalties within the parameters established herein and by action of the Recreation Board;

(e) Provide for maintenance, repair and reconstruction of the Trail System under the circumstances described herein above; and

(f) Keep financial records. All financial and other records shall be made reasonably available for examination by any of the homeowners associations and their authorized agents.



Any of the aforesaid duties may be delegated by the Recreation Board to any other person(s) or to a real estate management company (herein, the "Manager"). To the extent it may be required by any statute, and if not required by statute then at the option of the Recreation Board, said Manager or other person who receives the delegation of duties relating to the collection, deposit, transfer or disbursement of the Recreation board's funds shall: (1) maintain fidelity insurance or a bond in an amount not less than the greater of (a) fifty thousand dollars (\$50,000) or (b) the estimated maximum amount of funds, including reserve funds, in the custody of the Manager at any given time during the term of each policy as estimated by the Recreation Board; and (2) maintain all funds and accounts of the Recreation Board separate from the funds and accounts of other associations and entities managed by the Manager or other person(s) and maintain all reserve accounts separate from operational accounts of the Recreation Board. Further, the Manager, or a Public Accountant or Certified Public Accountant shall prepare and present to the Association an annual accounting of funds and a financial statement.

**Section 3.4. Limitation on Powers.** The Recreation Board may not act on behalf of the homeowner's associations to amend the Agreement or to elect members of the Recreation Board or determine the qualifications, powers and duties, or terms of office of Recreation Board members.

**Section 3.5. Meetings.** The Recreation Board shall have at least two regular meetings a year, once in May and once in October, or such other months as the Recreation Board may establish. When a complaint is filed with, or transferred to, the Recreation Board, a meeting shall be scheduled within 45 days. Notice of all meetings shall be given not less than 10 days prior to the meeting date. Two thirds of the members constitute a quorum for a meeting, but all votes require a majority of all members.

**Section 3.6. Waiver of Notice.** A waiver of notice of any meeting of the Recreation Board, signed by a member, whether before or after the meeting, shall be equivalent to the giving of notice of the meeting to such member.

**Section 3.7. Action of Members Without a Meeting.** Any action required to be taken or which may be taken at a meeting of members may be taken without a meeting if each and every member of the Recreation Board in writing either: (a) votes for such action; or (b) votes against such action or abstains from voting; and waives the right to demand that a meeting be held. Action is taken under this section only if the affirmative vote for such action equals or exceeds the minimum number of votes that would be necessary to take such action at a meeting at which all of the members then in office were present and voted. No action taken pursuant to this section shall be effective unless writings describing the action taken and otherwise satisfying the requirements of this section, signed by all Directors and not revoked pursuant to the provisions of this section, are received by the Recreation Board. Any such writing may be received by the Recreation Board by electronically transmitted facsimile or other form of wire or wireless communication providing the Recreation Board with a complete copy of the document, including a copy of the signature on the document. Action taken pursuant to this section shall be effective when the last writing necessary to effect the action is received by the Recreation Board unless the writings describing the action taken set forth a different

effective date. Any member who has signed a writing pursuant to this section may revoke such writing by a writing signed and dated by the member describing the action and stating that the member's prior vote with respect thereto is revoked, if such writing is received by the Recreation Board before the last writing necessary to effect the action is received by the Recreation Board. Action taken pursuant to this section has the same effect as action taken at a meeting of members and may be described as such in any document. All signed written instruments necessary for any action taken pursuant to this section shall be filed with the minutes of the meetings of the Recreation Board.

**Section 3.8. Participation by Electronic Means.** The Recreation Board may permit any member to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all members participating may hear each other during the meeting. A member participating in a meeting by this means is deemed to be present in person at the meeting. Notwithstanding the provisions of this section or Section 7 immediately preceding, when a hearing is to be heard in any meeting, the members must be physically present.

#### ARTICLE IV NOTICE AND HEARING

**Section 4.1. Notice and Hearing.** In all instances where a complaint has been filed with, or transferred to, the Recreation Board, the Recreation Board shall comply with the following:

(a) **Notice.** The Board, or its delegate, shall serve the alleged violator with written notice of a hearing to be held by the Recreation Board (the "Notice"). The Notice shall contain:

- (i) the nature of the alleged violation;
- (ii) the time and place of the hearing, which time shall not be less than ten (10) days from the giving of the Notice;
- (iii) an invitation to attend the hearing and produce any statement, evidence, and witness on his or her behalf; and
- (iv) the proposed sanction to be imposed.

(b) **Hearing.** The Hearing shall be held pursuant to this Notice affording the alleged violator and the responsible lot owner a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of Notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the Notice, together with a statement of the date and manner of delivery, is entered by the member, or agent who delivered such Notice. The Notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. If the Notice requirements have been met, and the alleged violator (and/or responsible lot owner) does not appear at the meeting, the alleged violator (and/or responsible lot owner) will be deemed to have waived his or her opportunity for a hearing.

The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The decision of the Recreation Board shall be final and shall be communicated to the violator and or the responsible lot owner and the corresponding homeowner's association which shall levy an assessment against the lot owner in the amount of the fine, if any. The fine when collected shall be turned over to the Recreation Board.

**Section 4.2. Hearing Committee.** In any instance that requires a hearing, where one or more members of the Recreation Board is a next door neighbor or witness in the case at hand, the chairman of the Recreation Board may appoint one or more natural persons who need not be lot owners to fill the conflicted members position on the Recreation Board for the purpose of the hearing of the specific matter. In appointing the substitute members the chairman should make a good faith effort to avoid appointing next-door neighbors of the respondent or any lot owners who are essential witnesses to the alleged violation giving rise to the complaint. The decision of the chairman shall be final, except that the respondent may challenge any member of the Recreation Board for cause, where a fair and impartial hearing cannot be afforded, at any time prior to the taking of evidence at the hearing. In the event of such a challenge, the Recreation Board shall meet to determine the sufficiency of the challenge. If such a challenge is sustained, the chairman shall appoint another person to replace the challenged member of the Recreation board. All decisions of the Recreation Board in this regard shall be final. The Recreation Board shall for each hearing, elect a chairman and appoint a hearing officer who shall take evidence and ensure that a proper record of all proceedings is maintained.

**Section 4.3. Fines and Penalties.** The following fines and other penalties shall be imposed on the violator, and on the lot owner where the violator is someone other than a lot owner, on a finding that there has been a violation of the Rules and Regulations as follows:

- (a) For a first time offense, a warning shall be issued;
- (b) For a second time offense (within a two year period), the fine will be \$100.00 and a suspension of the privileges to use the Trail System for a 30 day period to be designated by the Recreation Board;and
- (c) For a third offense or more (within a two year period), the fine shall be \$200.00 and a suspension of the privileges to use the Trail System for a period of 12 months to be designated by the Recreation Board.

**Section 4.4. Use of Fines Collected.** Any monies coming to the Recreation Board because of levied fines may be used by the Recreation Board to offset any of its costs and expenses with any remaining funds to be put into a reserve for the purpose of improvements and replacements to the Trail System.

**ARTICLE V  
INDEMNIFICATION OF OFFICIALS AND AGENTS**

**Section 5.1. Certain Definitions.** A "Corporate Official" shall mean any member of the Recreation Board or any officer, and any former member or officer, of the Recreation Board. A "Corporate Employee" shall mean any employee, and any former employee, of the Recreation Board. "Corporate Official" and "Corporate Employee" shall not include any officer, director, agent or employee of any managing agent employed by the Recreation Board, and no such person shall have right of indemnification hereunder. "Expenses" shall mean all costs and expenses including attorneys' fees, liabilities, obligations, judgments and any amounts paid in reasonable settlement of a Proceeding. "Proceeding" shall mean any claim, action, suit or proceeding, civil or criminal, whether threatened, pending or completed, and shall include appeals.

**Section 5.2. Right of Indemnification.** The respective homeowner's associations (sharing in the responsibility based on a fraction the numerator of which is one and the denominator of which is the number of homeowner's associations participating in the Trail System at the time of the occurrence) shall indemnify any Corporate Official and may, in their discretion, indemnify any Corporate Employee, against any and all Expenses actually and reasonably incurred by or imposed upon it in connection with, arising out of, or resulting from, any Proceeding in which it is or may be made a party by reason of (a) actual or alleged error or misstatement or misleading statement or act or omission or neglect or breach of duty while acting in an official capacity as a Corporate Official or Corporate Employee, or (b) any matter claimed against it solely by reason of being a Corporate Official or Corporate Employee. The right of indemnification shall extend to all matters as to which a majority of members of the Recreation Board by resolution, or independent legal counsel in a written opinion, shall determine that the Corporate Official or Corporate Employee acted in good faith and such person reasonably believed that the conduct was in the Recreation Board's best interests and had no reasonable cause to believe that its conduct was improper or unlawful. The right of indemnification shall not extend to matters as to which the Corporate Official or Corporate Employee is finally adjudged in an action, suit or proceeding to have been liable for gross negligence or willful misconduct in the performance of its duty except to the extent that a court may determine, upon application, that despite such adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity. The right of indemnification shall not extend to any matter as to which said indemnification would not be lawful under the laws of the State of Colorado.

**Section 5.3. Advances of Expenses and Defense.** The homeowner's associations may advance Expenses to, or where appropriate, may undertake the defense of, any Corporate Official or Corporate Employee, in a Proceeding provided that the Corporate Official or Corporate Employee shall comply with the requirements of C.R.S. 7-129-104.

**Section 5.4. Rights Not Exclusive.** The right of indemnification herein provided shall not be exclusive of other rights to which such Corporate Official or Corporate Employee may be entitled.

**Section 5.5. Authority to Insure.** The Recreation Board, or each individual homeowner's association, may purchase and maintain liability insurance on behalf of any Corporate Official or Corporate Employee against any liability asserted against it as a Corporate Official or Corporate Employee or arising out of its status as such, including liabilities for which a Corporate Official or Corporate Employee might not be entitled to indemnification hereunder.

## ARTICLE VI GENERAL

**Section 6.1. Amendment to Agreement.** Subject to the other provisions hereof, this Agreement may only be amended by the action of two-thirds of the then participating homeowner's associations. The Recreation Board may amend the schedule of fines and penalties from time to time and such amendments shall take effect within 10 days unless one or more of the then participating homeowner's associations gives written objection to the Recreation Board.

**Section 6.2. Withdrawal.** If a participating homeowner's association determines by a 2/3 vote of all eligible votes of said association that it desires to withdraw from participation in the Agreement, then within 3 calendar months of notifying the other participating homeowner's associations the other homeowner's associations shall vote on the request for withdrawal. If the other homeowner's associations by a 2/3 vote of all eligible votes in each respective association approves the request, the withdrawing homeowner's association's continued participation shall terminate on a date 30 days after the final approving vote is tabulated, and a recorded document to that effect shall be executed and recorded by the Recreation Committee.

**Section 6.3. Termination.** If within a six month period, all of the participating homeowner's associations determine by a 2/3 vote of all eligible votes of each association that it is no longer desirable to continue the Agreement, this Agreement shall terminate on a date 30 days after the later of (i) the date the final approving vote is tabulated or (ii) all financial obligations and other liabilities of the Recreation Board have been satisfied, and thereafter, a document to that effect shall be executed by all of the homeowner's associations and promptly recorded by the Recreation Board.

**Section 6.4. Withdrawal or Termination of an Association's Participation.** Withdrawal, suspension or termination of an association in the Trail System means *inter alia* that that association's portion of the Trail System is removed there from and that none of the association's lot owners or their family members, tenants or guests may use any portion of the Trail System on the property of the other homeowner's associations.

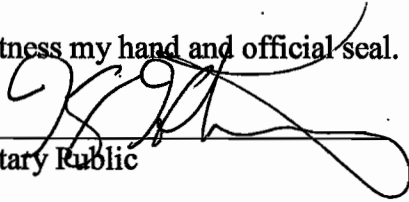


STATE OF COLORADO )  
 ) SS  
COUNTY OF SAN MIGUEL )

The foregoing instrument was acknowledged be fore me this 20<sup>th</sup> day of October, 2006 by William S. Nix, President of Gurley Lake Ranch Owners Association, Inc., a Colorado non profit corporation.

Witness my hand and official seal.

My Commission expires:

  
\_\_\_\_\_  
Notary Public

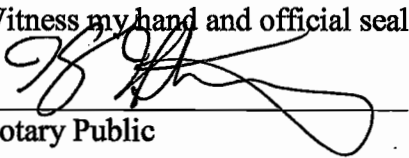
**KAY E. HARTMAN  
NOTARY PUBLIC  
STATE OF COLORADO**  
My Commission Expires 09/23/2007

STATE OF COLORADO )  
 ) SS  
COUNTY OF SAN MIGUEL )

The foregoing instrument was acknowledged be fore me this 20<sup>th</sup> day of October, 2006 by William S. Nix, President of North Gurley Reserve Owner's Association, Inc., a Colorado non profit corporation.

Witness my hand and official seal.

My Commission expires:

  
\_\_\_\_\_  
Notary Public

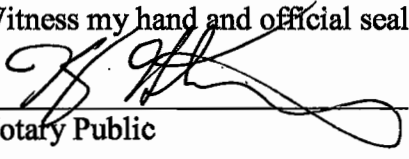
**KAY E. HARTMAN  
NOTARY PUBLIC  
STATE OF COLORADO**  
My Commission Expires 09/23/2007

STATE OF COLORADO )  
 ) SS  
COUNTY OF SAN MIGUEL )

The foregoing instrument was acknowledged be fore me this 20<sup>th</sup> day of October, 2006 by William S. Nix, President of Gurley Canyon Ranch Owners' Association, Inc., a Colorado non profit corporation.

Witness my hand and official seal.

My Commission expires:

  
\_\_\_\_\_  
Notary Public

**KAY E. HARTMAN  
NOTARY PUBLIC  
STATE OF COLORADO**  
My Commission Expires 09/23/2007



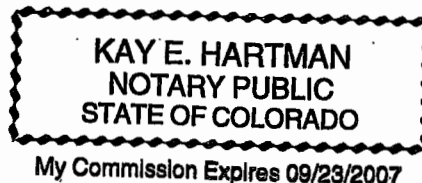
STATE OF COLORADO )  
 ) SS  
COUNTY OF SAN MIGUEL )

The foregoing instrument was acknowledged be fore me this 20<sup>th</sup> day of October, 2006 by William S. Nix, General Partner of Gurley Lake Land and Cattle Company, a Colorado general partnership.

Witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public

My Commission expires:



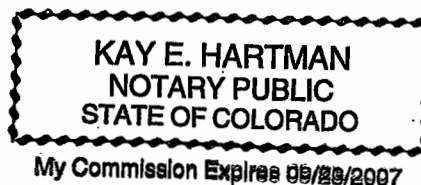
STATE OF COLORADO )  
 ) SS  
COUNTY OF SAN MIGUEL )

The foregoing instrument was acknowledged be fore me this 20<sup>th</sup> day of October, 2006 by William S. Nix, Managing Member of Lone Cone Properties, LLC, a Colorado limited liability company.

Witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public

My Commission expires:



STATE OF COLORADO )  
 ) SS  
COUNTY OF SAN MIGUEL )

The foregoing instrument was acknowledged be fore me this 20<sup>th</sup> day of October, 2006 by William S. Nix, Managing Member of Lone Cone Land, LLC, a Colorado limited liability company.

Witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public

My Commission expires:

