

FIFTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR IDARADO LEGACY SUBDIVISION

THIS FIFTH AMENDMENT ("Amendment") is made and entered into this ~~14th~~ day of July, 2005 ("Effective Date") by Idarado Legacy, LLC, a Colorado limited liability company ("Declarant").

RECITALS

- A. The Declaration of Covenants, Conditions and Restrictions for Idarado Legacy Subdivision was recorded June 17, 2004 at Reception No. 367146 in the Office of the Clerk and Recorder of San Miguel County, Colorado, as amended by the First Amendment to the Declaration recorded on September 17, 2004 in Reception No. 369142, the Second Amendment to the Declaration recorded on November 1, 2004 in Reception No. 370144; the Third Amendment to the Declaration recorded on November 1, 2004 in Reception No. 370145 and the Fourth Amendment recorded on January 27, 2005 in Reception No. 372009 (collectively "**Declaration**"). Capitalized terms used in this Amendment shall have the meaning ascribed to the term in the Declaration.
- B. The Declaration references and incorporates that certain Plat for the Subdivision Exemption Plat and Cluster Development Plan recorded February 10, 2004 in Plat Book 1 at Page 3238, Reception No. 364049, as amended by the First Amendment to the Final Plat recorded on November 1, 2004 in Plat Book 1 at Page 3368, Reception No. 370139 and as amended by the Second Amendment to the Final Plat recorded on August 18, 2005 in Plat Book 1 at Page 3508, Reception No. 377041 (collectively "**Plats**").
- C. The Declaration describes and the Plat depicts certain land that were made part of the Common Interest Community, governed by the Declaration, including certain Lots, Parcels and Tracts.
- D. The Second Amendment to the Final Plat established a division of land depicted and described therein as Outlot C.
- E. Declarant reserved the right in Section 7.5 of the Declaration to withdraw Property, which was subjected to the Declaration, from the Common Interest Community.
- F. Declarant hereby elects to exercise its reserved Declarant Rights as contained in Section 7.5 of the Declaration to withdraw from the Common Interest Community the land described as Outlot C on the Second Amendment to the Final Plat ("**Withdrawn Land**").

NOW, THEREFORE, for and in consideration of the premises and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Declaration is hereby amended as follows:

1. Declarant hereby withdraws the Withdrawn Land from the Common Interest Community. The Withdrawn Land is depicted on the Plat as Outlot C. The Withdrawn Land shall no longer be part of the Common Interest Community or subject to this Declaration or its terms, covenants, conditions and restrictions of the Declaration in any way, except that certain easements for the benefit of the Association and the Owners are being reserved by separate

easement documents and the beneficial rights thereof shall be deemed to be Association Property.

2. The Withdrawn Land shall be used and developed for purposes not inconsistent with the purposes of the Declaration, provided that in any event, the Withdrawn Land may be used for uses and activities authorized by San Miguel County, including passive recreation and further for purposes relating to obligations of Idarado Mining Company under Section 3.29 or its other obligations with the State of Colorado to implement measures known as the Remedial Action Plan ("**RAP**") on portions of its property to prevent any further potential contamination from historic mining operations. The RAP was reviewed and approved by the United States District Court, evidenced by a Consent Decree filed with the Court under case captioned Civil Action No. 83-C-2385, which Consent Decree was signed by IMC, the State of Colorado and other parties of interest, of record ("**Consent Decree**")."

3. Various easements have been established both within and outside the boundaries of the Common Interest Community, which were intended to be depicted on the Plats. Declarant intends that the rights, duties and obligations arising under such easements constitute Association Property and that the costs incurred by the Association in exercising or otherwise undertaking its rights, duties and obligations thereunder are deemed to be Common Expenses and will be allocated by the Association as Common Expenses.

4. In all other respects, said Declaration shall remain unmodified hereby and in full force and effect.

5. The Idarado Legacy Homeowners Association, a Colorado nonprofit corporation has reviewed and does approve and consent to this Amendment.

IN WITNESS WHEREOF, Declarant has executed this Amendment as of the Effective Date.

IDARADO LEGACY, LLC,
a Colorado limited liability company

Idarado Legacy, LLC,
a Colorado limited liability company

By: CLH-Telluride Associates, LLC,
a Colorado limited liability company,
Member of Idarado Legacy, LLC

By: Wildcat Land Company, its Manager

By: William R. Hegberg
William R. Hegberg, President

Date: 7/14/05

STATE OF COLORADO)
COUNTY OF San Miguel) ss.



MY COMMISSION EXPIRES 4/5/2008

The foregoing First Amendment was acknowledged before me this 14 day of July, 2005 by William R. Hegberg, as President of Wildcat Land Company.

Witness my hand and official seal.

J. Dolan
Notary Public

My commission expires: 4/5/08

ASSOCIATION CONSENT:

Idarado Legacy Homeowners Association,
a Colorado nonprofit corporation

By: J. Christopher Chaffin
J. Christopher Chaffin, President



MY COMMISSION EXPIRES 4/5/2008

STATE OF COLORADO)
COUNTY OF SAN MIGUEL) ss.

Acknowledged, subscribed and sworn to before me this 14 day of July, 2005 by J. Christopher Chaffin, President, President of Idarado Legacy Homeowners Association.

Witness my hand and official seal.

J. Dolan
Notary Public

My commission expires: 4/5/08