

BOUNDARY LINE AGREEMENT

THIS BOUNDARY LINE AGREEMENT (“**Agreement**”) is made this 14th day of July, 2005 (“**Effective Date**”), by and between Idarado Legacy, LLC, a Colorado limited liability company (“**Idarado**”) and Lone Tree Cemetery District (“**District**”). Idarado and District are sometimes collectively referred to as the “**Parties**” and sometimes individually referred to as a “**Party**”.

RECITALS

A. Idarado is the owner and developer of certain lots, tract and parcels which are located in the Idarado Legacy Subdivision (“**Idarado Property**”) according to the Final Record Plat of Declarant Subdivision recorded February 10, 2004 in Plat Book 1 at Page 3238, Reception No. 364049 in the Office of the Clerk and Recorder of San Miguel County, Colorado (“**Official Records**”) (“**Plat**”), as amended by the First Amendment to the Plat (“**First Plat Amendment**”) recorded on November 1, 2004 in Plat Book 1, at Page 3368, Reception No. 370139 in the Official Records, as amended by the Second Amendment to the Plat (“**Second Plat Amendment**”) recorded on August 19, 2005 in Plat Book 1, at Page 3508, Reception No. 377041 in the Official Records, as may be further amended, and according to the Declaration of Covenants, Conditions and Restrictions for Declarant Subdivision (“**CCR’s**”), recorded in the Official Records at Reception No. 367146, as amended. The Idarado Legacy Subdivision is referred to as the “**Community**”. Pursuant to the Governing Documents, Declarant also caused to be created the Idarado Legacy Owners Association, Inc. (“**Association**”), to exist and operate in accordance with the Governing Documents.

B. District is the owner of certain property generally known and described as the Lone Tree Cemetery (“**District Property**”).

C. The Parties have discovered that certain existing fences (“**Existing Fences**”) as depicted on attached **Exhibit “A”** do not follow the surveyed and platted property boundary lines. The Parties intend that the location of certain of the surveyed Existing Fences and not the location of the platted boundary lines, where indicated on **Exhibit “A”**, shall serve as the true and correct property boundary lines existing between the Idarado Property and the District Property.

D. The Parties further intend to state and confirm their understanding and agreement concerning the identification and establishment of the “**Common Boundary Line**” between the District Property and the Idarado Property as depicted and described on attached **Exhibit “A”**.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Idarado and District hereby agree as follows:

1. By the execution hereof, the undersigned owners of each of the affected lots, tracts and parcels do hereby stipulate and agree that the location of certain of the surveyed Existing Fences (“**Existing Fence Boundary Line**”) where indicated on **Exhibit “A”** and not the location of the surveyed property boundary lines are intended to serve as the true and correct property boundary lines existing between the Idarado Property and the District Property.

2. In all other instances the location of the Common Boundary Line as the same is depicted and described on attached **Exhibit “A”** shall control the separation of the property in

those instances where the District Property and the Idarado Property share a common boundary line.

3. This Boundary Line Agreement is being executed and recorded pursuant to C.R.S. Section 38-44-112. The Parties may grant and convey their respective property interests with reference this Agreement.

4. Idarado agrees to grant and convey to the District the area designated as Outlot E on the Second Plat Amendment, which reflects that portion of land extending beyond the Common Boundary Line into Idarado Property to the Existing Fences. Thereafter, each Party does hereby quitclaim to the owner of an adjacent property any and all rights, title or interest, if any, in and to such other and further adjacent property beyond the Common Boundary Line.

5. District represents to Idarado that there are no other known encroachments, including burial locations on the Idarado Property. In the event that any such conditions are discovered in the future, the parties shall meet and confer and try to resolve such conditions in a manner the eliminates any impacts to development of the Idarado Property.

6. The Parties acknowledge and agree that the District shall maintain and repair at its cost the Existing Fences that adjoin Idarado Property and the District Property. The Parties hereto by these present hereby grant and convey to each other reciprocal easements to enter upon property as is reasonably necessary to maintain, repair, remove or relocate a partition fence in accordance with the terms of this Agreement.

7. **Miscellaneous.**

7.1. **Run With The Land. Heirs, Successors and Assigns.** The terms, conditions, easements, benefits and rights granted and agreed to herein and the burdens, duties and obligations imposed and agreed to herein shall run with the Idarado Property and District Property. Further, the easements, benefits and rights granted and agreed to herein and the burdens, duties and obligations imposed and agreed to herein shall be binding upon and shall inure to the benefit of, and be a burden upon, the heirs, designees, successors and assigns of the Parties.

7.2. **Recordation.** This Agreement is intended to be recorded by the Parties in the office of the Clerk and Recorder of San Miguel County, Colorado.

7.3. **Effective Upon Execution.** This Agreement shall not be binding or effective on any party until executed on its behalf. The Parties acknowledge and agree that all obligations of Grantee herein and hereunder shall apply to Grantee with equal force and effect to, and Grantee shall be responsible for the actions or inactions of Grantee's employees, representatives, agents, contractors, subcontractors, suppliers and materialmen.

7.4. **Further Assurances.** Recognizing that the Parties hereto may find it necessary from time to time to establish to lenders, mortgagees, accountants or other persons or parties of the then current status of performance hereunder, each Party bound or benefited by this Agreement agrees, upon written request, that it will from time to time, with reasonable promptness, furnish a written statement in recordable form on the status of any matter relating to this Agreement.

7.5. **Governing Law. Enforcement.** This Agreement and the rights and obligations of the Parties hereto shall be interpreted, construed and enforced in accordance

with the laws of the State of Colorado. In the event of any interference or threatened interference with the Easement herein granted or with the other rights and obligations of the Parties hereunder, a party may pursue all available remedies, including, without limitation, injunctive relief or specific performance to ensure performance of another Parties obligations hereunder. In any action for enforcement of rights hereunder, the prevailing party shall be entitled to an award for recovery of their costs and fees, including reasonable attorney fees. Except as may be expressly otherwise stated or provided, with respect to all required acts of the Parties, time is of the essence.

7.6. **Waiver of Jury Trial**. Each Party hereto waives its right to a jury trial in the event of any litigation arising out of this Easement Agreement.

7.7. **Signatories**. The undersigned represent and warrant that they are authorized to execute this Agreement on behalf of their respective principals.

7.8. **Authorization**. The Parties hereto warrant they are fully authorized to execute this Agreement and have taken all actions necessary to obtain such authorization.

7.9. **Captions**. Captions are for convenience only and are not to be construed as defining or limiting in any way the scope of intent of the provisions of such sections.

7.10. **Severability**. If any provision of this Agreement shall be found invalid or unenforceable, this shall not affect the validity of the remaining provisions of this Easement Agreement, and the remaining provisions shall remain in full force and effect.

7.11. **Entire Agreement**. This Agreement contains the entire agreement and understanding of the Parties with respect to the subject matter hereof, and no other representations, promises, agreements or understandings or obligations with respect to the payment of consideration or agreements to undertake other actions regarding the subject matter hereof shall be of any force or effect unless in writing, executed by all Parties hereto and dated after the date hereof.

7.12. **Modifications and Waivers**. No change, modification or waiver of any provision of this Agreement shall be valid or binding unless it is in writing, dated subsequent to the date hereof and signed by the Parties hereto. No waiver of any breach, term or condition of this Agreement by any Party shall constitute a subsequent waiver of the same or any other breach, term or condition.

7.13. **Notice**. All notices, demands or writings in this Agreement provided to be given or made or sent that may be given or made or sent by either party hereto to the other, shall be deemed to have been fully given or made or sent when made in writing and delivered either by Fax, Email or United States Mail (certified, return receipt requests and postage pre-paid), and addressed to the party, at the below stated mailing address, email address or fax number. The mailing address, email address or fax number to which any notice, demand or writing may be changed by sending written notice to each Party notifying the party of the change.

If To Grantor:

Idarado Legacy, LLC
P.O. Box 1039
Telluride, CO 81435

With a copy to:

Idarado Legacy Owners Association, Inc.
P.O. Box 1039
Telluride, CO 81435

And a copy to:

Thomas G. Kennedy
P.O. Box 3081
Telluride, CO 81435
Fax: (970)728-9439
Email: tom@tklaw.net

If To Grantee:

P. O. Box _____
Telluride, Co. 81435

with a copy to:

San Miguel County Attorney
P.O. Box 791
Telluride, CO 81435

7.14. **Counterparts and Facsimile Copies.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Facsimile copies of any Party's signature hereon shall be deemed an original for all purposes of this Easement Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

IDARADO

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)
) ss.
COUNTY OF Santa Fe

Acknowledged, subscribed and sworn to before me this 14th day of July, 2005 by William R. Hegberg, President of Wildcat Land Company.

Witness my hand and official seal.

J. Dolan
Notary Public My commission expires: 4/5/08

DISTRICT

Lone Tree Cemetery District

By: Patrick J. Dalpez Date: 8/5/05

STATE OF COLORADO)
) ss.
COUNTY OF SAN MIGUEL)

Acknowledged, subscribed and sworn to before me this 5TH day of AUGUST, 2005 by PATRICK J. DALPEZ, as the PRESIDENT of Lone Tree Cemetery District.

Witness my hand and official seal.

Doris Tuffe My commission expires: NON-EXPIRING
Notary Public
SAN MIGUEL COUNTY CLERK



Exhibit "A"
BOUNDARY LINE AGREEMENT

