

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

BECKWITH MOUNTAIN RANCH FILING NO. 2

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration"), made this 30th day of August, 1996, by BECKWITH MOUNTAIN RANCH COMPANY, LLC ("Declarant"), a Colorado limited liability company;

WITNESSETH:

Introductory Statement

A. Declarant is the owner of certain tracts or parcels of land situated in Fremont and Custer Counties, Colorado, containing approximately 919.18 acres, and known as "Beckwith Mountain Ranch, Filing No. 2," being a subdivision comprised of individual parcels ("Parcels") containing approximately thirty-five (35) acres each, private roads and related amenities (such subdivision, together with any additional properties which may be added to this Declaration by Declarant, being collectively called the "Properties").

B. Declarant desires to provide for (i) the construction and installation of electric power and telephone lines (to the extent deemed feasible by the Board) to the boundary of each Parcel within the Properties to provide for electricity and telephone service (to the extent deemed feasible by the Board) (the "Utility Lines") to such Parcel, (ii) the maintenance of private roads and signs (and all elements thereof) situated within the Properties, and (iii) the maintenance and preservation of the Common Areas, as hereinafter defined (such maintenance being collectively called the "Common Area Maintenance").

C. Declarant has further deemed it advisable, for the efficient preservation of the values and amenities within the Properties, to (i) impose covenants upon the Properties, (ii) to cause to be incorporated under the Non-Profit Corporation Act of the State of Colorado (the "Act") a non-profit corporation, Beckwith Mountain Ranch Property Owners' Association, Inc. (the "Association"), and (iii) to delegate and assign to the Association the powers of constructing and installing the Utility Lines and performing the Common Area Maintenance, and collecting and disbursing the assessments and charges, as hereinafter provided.

NOW, THEREFORE, Declarant declares that the Properties shall be held, transferred, sold, conveyed and occupied subject to the covenants, easements, charges and liens (sometimes referred to as "Covenants") hereinafter set forth.

Declaration

ARTICLE I

DEFINITIONS

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

"Act" shall mean the Colorado Common Interest Ownership Act and all amendments thereto.

"Applicable Laws" shall mean the Act, any applicable provisions of the deed of trust laws of the State of Colorado, and any other laws of the State of Colorado applicable to this Declaration and the Properties, and as they may be amended from time to time.

"Assessments" shall mean and refer to the regular annual assessments, the special assessments and the default assessments provided in Section 3.1 hereof.

"Association" shall mean and refer to the Beckwith Mountain Ranch Property Owners' Association, Inc., a Colorado non-profit corporation.

"Board" shall mean the Board of Directors of the Association.

"Budget" shall mean the budget to be proposed by the Board and approved by the Owners for each fiscal year of the Association in accordance with provisions of Paragraph 3.4(b) hereof and of the Act.

"County" shall mean the County of Fremont, Colorado, or to the extent that any portion of the Properties shall at any time be located therein, the County of Custer, Colorado.

"Common Areas" shall mean and refer to those areas of land designated as (i) Common Areas (if any) on any recorded subdivision plat of the Properties and intended to be devoted to the common use and enjoyment of the Members of the Association, together with any and all improvements that are now or may hereafter be constructed thereon, (ii) the Roads and signs, if any, and all elements thereof, (iii) the entry areas and any land near or adjacent to the entrances to the Properties with respect to which Declarant or the Association is granted or has reserved any easement for ingress and egress, including, but not limited to installing and maintaining entry signage for the Properties, (iv) any and all landscaping and other improvements installed by Declarant or the Association on the Roads or on any other Common Areas, and (v) any other property or improvements for which the Association may hereafter, by determination of the Board in its sole discretion or otherwise, hereafter become obligated to maintain, improve or preserve.

"Declarant" shall mean and refer to Beckwith Mountain Ranch Company, LLC, a Colorado limited liability company, its successors and any assignee, other than an Owner, who shall receive by assignment from the said Beckwith Mountain Ranch Company, LLC all or a portion of its rights hereunder as such Declarant, by an instrument expressly assigning such rights as Declarant to such assignee.

"Dwelling Unit" shall mean and refer to any building or portion of a building situated upon the Properties which is designed and intended for use and occupancy as a residence by a single person, a couple, a family or a permitted family size group of persons.

"Grazing Lease" shall mean and refer to that certain Grazing Lease entered into by Declarant, as the lessor, and Paul R. Seegers, as the lessee (the "Tenant"), granting to the Tenant the right to use the Properties for the grazing of cattle upon the terms and conditions therein set forth, effective as of January 1, 1994.

"Maintenance Fund" shall mean the regular annual assessments collected by the Association from time to time in accordance with the provisions of Section 3.1 hereof.

"Member" shall mean and refer to each Owner as provided herein in Article II.

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Parcel but, notwithstanding any applicable theory of mortgages or other security devices, shall not mean or refer to any mortgagee or trustee under a mortgage or deed of trust unless and until such mortgagee or trustee has acquired title pursuant to foreclosure or any conveyance in lieu of foreclosure.

"Parcel" shall mean and refer to any plot or tract of land shown upon any recorded subdivision map of the Properties which is shown as a subdivided parcel of land thereon.

"Plat" or "Plats" shall mean the final subdivision plat or plats of the Properties, subdividing the Properties as an addition to the County, and recorded or to be recorded in the Plat Records of the County, and all supplements, amendments and additions thereto.

"Properties" shall have the meaning given to it in Paragraph A of the Introductory Statement above, together with additions thereto as may be made in accordance with Section 7.1 hereof, subject to the terms of this Declaration, by a Supplemental Declaration of Covenants executed and filed by Declarant in the Deed Records of the county where the real property being added to this Declaration is situated.

"Resident" shall mean and refer to each person (not otherwise an Owner or Member) authorized by an Owner to reside within such Owner's Dwelling Unit.

"Road Reserve Fund" shall have the meaning set forth in Section 5.1(c) hereof.

"Roads" shall mean the easements creating the right-of-way of all private roads and other rights-of-way situated within, and as shown on the Plat of, the Properties, together with all pavement, curbs, street lights, signs and related facilities installed thereon, if any, which are intended for the private use of all Owners, their guests and invitees.

"Utility Assessments" shall mean and refer to the one-time assessment to be paid by each Owner at the time such Owner purchases his Parcel in accordance with the provisions of Section 3.1(b) hereof.

"Utility Fund" shall mean the fund established from Utility Assessments for the purpose of constructing and installing the Utility Lines as provided in Section 3.1(b) hereof, plus any supplemental assessment which may be determined by the Board to be necessary for the completion of the Utility Lines.

"Utility Lines" shall mean the underground electric and telephone transmission lines (but only to the extent the Board elects to install telephone transmission lines) to be installed by the Association to the property line of each Parcel which does not currently have access to such lines, but does not include transmission lines from the boundary line of each Parcel to the building site on that Parcel (which transmission lines shall be installed by each Owner at such Owner's cost).

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION: CONTROL DURING DEVELOPMENT

2.1 Membership. Every Owner of a Parcel shall automatically be a Member of the Association.

2.2 Voting Rights. One vote shall be allocated to each Parcel within the Properties.

2.3 Control During Development. The Declarant shall have the power to control the affairs of the Association including the power to appoint and remove officers and members of the Board of Directors of the Association until sixty days after conveyance of seventy-five percent (75%) of the tracts within the subdivision to Owners other than Declarant; provided however, that in accordance with the provisions of the Colorado Common Interest Ownership Act, not later than sixty days after the conveyance of twenty-five percent (25%) of the tracts within the subdivision to Owners other than the Declarant, at least one member and not less than twenty-five percent (25%) of the members of the board must be elected by Owners other than the Declarant; and not more than sixty days after the conveyance of fifty percent (50%) of the tracts within the subdivision to Owners other than the Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the board must be elected by Owners other than the Declarant.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS

3.1 Creation of the Lien and Personal Obligation for Assessments.

(a) Each Owner of a Parcel (by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance), for each Parcel owned by any such Owner, hereby covenants and agrees and shall be deemed to covenant and agree to pay to the Association (or to a mortgage company or other collection agency designated by the Association): (a) annual assessments or charges, to be paid in installments as the Board of Directors of the Association may elect,

(b) special assessments for capital improvements and/or unanticipated expenses, such assessments be fixed, established and collected from time to time as hereinafter provided, and (c) default assessments which may be assessed against an Owner's Parcel by the Association at any time and from time to time to reimburse the Association for costs and expenses incurred on behalf of such Owner by the Association in accordance with this Declaration. The regular annual assessments collected by the Association shall constitute the "Maintenance Fund" of the Association. The regular annual, special and default assessments, together with such interest thereon and costs of collection thereof as hereinafter provided (collectively "Assessments"), shall be a charge on the land and shall be a continuing lien upon each Parcel against which each such Assessment is made. Each such Assessment, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall also be the continuing personal obligation of the person who was the Owner of such Parcel at the time when the Assessment became due.

(b) In addition to the Assessments, each Owner shall be obligated to pay to the Association, (i) at the time of the purchase by such Owner of his Parcel, a one-time assessment (the "Utility Assessment") to be maintained by the Association in a special fund (the "Utility Fund") for the sole purpose of constructing and installing underground the Utility Lines at such time as not less than eighty percent (80%) of the Parcels have been sold and conveyed by Declarant, and (ii) any supplemental assessment determined by the Board to be needed for the completion of the Utility Lines; provided, that those Parcels which are presently served by electric utility lines shall be exempt from the payment of such Utility Assessment to the extent that it applies to electric utility lines (but not to the extent that it is applicable to telephone transmission lines). If and to the extent that any amounts remain unused in the Utility Fund following the completion of the Utility Lines, then such unused amounts shall be refunded by the Board pro rata to the Owners who have paid the same.

3.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Properties, and in particular for the payment of all costs and expenses related to Common Area Maintenance and the construction and installation of the Utility Lines, together with all services, equipment and facilities devoted to this purpose, including, but not limited to, the payment of all costs and expenses incurred for carrying out the duties of the Board as set forth in Article IV hereafter and for carrying out the purposes of the Association as stated in its Articles of Incorporation.

3.3 Maintenance of the Common Areas By Declarant. Until the Association makes a common expense assessment, the Declarant shall pay all common expenses. After the Association makes a common expense assessment, and until such time as Declarant has sold and conveyed all of the Parcels to third party purchasers, Declarant shall have the right (but not the obligation), at its election and in its sole discretion, to assume the exclusive responsibility from time to time of maintaining the Common Areas and constructing and installing the Utility Lines in the name and on behalf of the Association, including, but not limited to, paying the costs of labor, equipment (including the expense of leasing any equipment) and materials required in connection therewith. All costs and expenses incurred by Declarant in connection with the maintenance of the Common Areas and the construction and installation of the Utility Lines as provided in the preceding sentence shall be obligations of the Association and reimbursed by the Association to Declarant, together with interest thereon at a rate equal to the national prime rate as published in the *Wall Street Journal* from time to time, plus two percent (2%) per annum (but not to exceed the highest lawful rate), as and when Assessments and Utility Assessments are collected from Owners. In this regard, and during such period, all Assessments, both regular and special, and all Utility Assessments collected by the Association shall be forthwith paid by the Association to Declarant, to the extent that such Assessments and Utility Assessments are required by Declarant to maintain the Common Areas and construct and install the Utility Lines as set forth in this paragraph. The Association shall rely upon certificates executed and delivered by Declarant with respect to the amount required by Declarant to maintain the Common Areas and construct and install the Utility Lines.

3.4 Basis and Amount of Assessments.

(a) Until the year beginning January 1, 1997, the annual Assessment shall be Two Hundred Dollars (\$200.00) per Parcel.

(b) Within thirty (30) days after the adoption by the Board of any proposed budget ("Budget") for the Properties, the Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of, the Budget to all Owners and shall set a date for a meeting of the Owners to consider ratification of such Budget not less than fourteen (14) but no more than sixty (60) days after mailing or other delivery of the summary. Unless at such meeting a majority of all Owners shall reject the Budget, the Budget shall be deemed to have been ratified, whether or not a quorum is present. In the event that any proposed Budget is rejected, the periodic Budget last ratified by the Owners shall continue until such time as the Owners ratify a subsequent Budget proposed by the Board.

(c) Subject to the compliance by the Board with the Budget provisions of paragraph (b) above, commencing with the year beginning January 1, 1997, and each year thereafter, the Board, at its annual meeting next preceding such January 1, 1997, and each January 1 thereafter, shall set the amount of the annual Assessment for the following year for each Parcel, taking into consideration the current maintenance costs and the future needs of the Association; provided, that from and after January 1, 1997, in no event shall the annual Assessment for each Parcel which is subject to being assessed for any year exceed the annual Assessment levied by the Board for the immediately preceding year by more than ten (10%) percent except only in the case of unusual or extraordinary costs and expenses to be paid by the Association as determined from time to time by the Board.

(c) In addition to regular annual assessments set forth above and special assessments set forth in Section 3.5 below, each Owner shall be obligated, at the time of the purchase of a Parcel by such Owner and simultaneously therewith, to pay to the Association the sum of Fifty Dollars (\$50.00) as a one-time acquisition and transfer fee to reimburse the Association for its costs in connection therewith.

3.5 Special Assessments for Capital Improvements. In addition to the annual Assessments authorized by Section 3.4 above, the Association may levy in any Assessment year a special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, any unanticipated cost or expense related to the Common Areas or for the cost of any construction or reconstruction, unexpected repair or replacement, of a described capital improvement, including the necessary fixtures and personal property related to the Common Areas; PROVIDED THAT any such Assessment for capital improvements shall have the assent of the Members entitled to cast two-thirds (2/3) of the votes of the members of the Association entitled to vote who either (i) are voting in person or by proxy at a meeting duly called for this purpose, as provided in Section 2.2, or (ii) execute a written consent in lieu of a meeting for such purpose.

3.6 Uniform Rate of Assessment. Both regular and special Assessments shall be fixed at a uniform rate for all Parcels in the Properties; provided, that (i) no Parcel shall be subject to any Assessment until the date upon which such Parcel has been conveyed by Declarant to a purchaser, (ii) Assessments for the payment of any common expense or portion thereof benefitting fewer than all of the Parcels shall be assessed exclusively against the Parcel Owners benefitted, and (iii) if any common expense is caused by the misconduct of any Owner, the Association may levy an Assessment for the payment of such expense exclusively against such Owner's Parcel.

3.7 Date of Commencement of Assessments: Due Date.

(a) The initial Assessment provided for in Section 3.4 above shall commence on the date fixed by the Board to be the date of commencement, and shall be paid in advance, on the first day of each period designated by the Board thereafter; provided, however, that if the date of commencement falls on other than the first day of a calendar year, the Assessment for such year shall be prorated by the number of days remaining in the year.

(b) The due date or dates, if it is to be paid in installments, of any special Assessment under Section 3.5 above shall be fixed in the resolution authorizing such Assessment.

3.8 Duties of the Board with Respect to Assessments.

(a) The Board shall fix the date of commencement and the amount of the Assessment against each Parcel for each Assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Parcels and Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

(b) Written notice of the Assessment shall thereupon be delivered or mailed to every Owner subject thereto.

(c) The Association shall, upon the request of any Owner, or of any holder of a security interest or lien upon any Parcel or its designee, furnish a written statement of unpaid assessments as required by §38-33.3-316(8) of the Act.

3.9 Effect of Non-Payment of Assessment: The Personal Obligation of the Owner, the Lien, Remedies of Association.

(a) If any Assessment or any part thereof is not paid on the date(s) when due (being the dates specified by the Board pursuant to Section 3.7 above), then the unpaid amount of such Assessment shall become delinquent and shall, together with such interest thereon and the costs of collection thereof as hereinafter provided, thereupon become a continuing lien on the Parcel of the non-paying Owner which shall bind such Parcel in the hands of the then Owner, his heirs, executors, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such Assessment, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them. The lien for unpaid Assessments shall be unaffected by any sale or assignment of a Parcel and shall continue in full force and effect. No Owner may waive or otherwise escape liability for the Assessments provided herein by non-use of the Common Areas or abandonment of his Parcel.

(b) In furtherance of the Lien provided in Section 3.9(a) above, and to secure the full and timely payment of all Assessments and other amounts payable by each Owner hereunder, each Owner does hereby grant and convey unto the Public Trustee of the county in which such Owner's Parcel is situated (and shall be deemed to have granted and conveyed by acceptance of a deed to his Parcel), in trust as Trustee (the "Trustee"), the Parcel owned by such Owner, subject to all easements and other encumbrances affecting such Parcel; provided, that each such grant shall be subordinated to the lien of any mortgage or deed of trust only to the extent provided in Section 3.10 below; and for these purposes the provisions of this paragraph shall be deemed to have created a deed of trust (the "Deed of Trust") covering all of the Parcels with a power of sale granted to the Trustee in accordance with the applicable provisions of Applicable Laws. The Deed of Trust created hereby shall be upon the same terms and conditions, and shall provide to the Association all of the rights, benefits and privileges, of the statutory provisions of the State of Colorado relating to deeds of trust. The Association, acting through its president, shall have the right in its sole discretion at any time, and from time to time, to appoint in writing a substitute or successor trustee subject to and in accordance with the Colorado Revised Statutes §38-37-101 of the Colorado Revised Statutes and any amendments thereto, which substitute or successor trustee shall succeed to all rights and responsibilities of the then acting Trustee, and to designate by written notice given to the Owners a different form of deed of trust which shall determine the rights, benefits and privileges of the Association created under this Paragraph (b).

(c) Without limitation of the remedies available to the Association and to the other Owners upon the occurrence of a default by any Owner in the payment of any Assessment or other amount due and payable hereunder, the Association may, at its election and by and through the Trustee or otherwise (i) foreclose its lien against the Parcel owned by such defaulting Owner in like manner as a mortgage on real estate, or (ii) to the extent permitted by the Act, sell or offer for sale the Parcel owned by the defaulting Owner to the highest bidder for cash at public auction in accordance with the provisions of the Applicable Laws. The Association may, at its option, accomplish such foreclosure sale in such manner as permitted or required by the Applicable Laws or by any other present or subsequent laws relating to the same. After the sale of any Parcel in accordance with the provisions of this paragraph, and subject to the applicable provisions of the Applicable Laws, the Owner of such Parcel shall be divested of any and all interests and claims thereto, and the proceeds of any such sale shall be applied in the following order of priority: (i) to the payment of the costs and expenses of taking possession of the Parcel, (ii) to the payment of reasonable Trustee's fees, (iii) to the payment of costs of advertisement and sale, (iv) to the payment of all unpaid Assessments and other amounts payable by such Owner to the Association hereunder, and (v) to the defaulting Owner or to any other party entitled thereto. The Association shall have the right to become the Purchaser at the sale of any Parcel hereunder and shall have the right to be credited on the amount of its bid therefor all of the Assessments due and owing by the defaulting Owner to the Association as of the date of such sale.

(d) If any Assessment or part thereof is not paid within thirty (30) days after the delinquency date, the unpaid amount of such Assessment shall bear interest from the date of delinquency at the maximum legal rate of interest, and the Association may, at its election, bring an action at law against the Owner personally obligated to pay the same in order to enforce payment and/or to foreclose the lien against the property subject thereto, and there shall be added to the amount of such Assessment the costs of preparing and filing the complaint (including reasonable attorneys' fees) in such action, and in the event a judgment is obtained such judgment shall include interest on the Assessment as above provided and a reasonable attorneys' fee

to be fixed by the court, together with the costs of the action. In addition to interest on delinquent amounts as set forth above, each Delinquent Owner shall be obligated to pay a late charge with respect to any Assessment which is not paid within thirty (30) days after the date due as determined from time to time by the Board.

3.10 Exempt Property. All areas reserved or dedicated to any public authority by the Declarant on each recorded plat of the Properties shall be exempted from the Assessments, charge and lien created herein.

ARTICLE IV

GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS OF THE ASSOCIATION

4.1 Powers and Duties.

(a) The Board, for the benefit of the Properties and the Owners, shall provide, and shall pay for out of the Maintenance Fund and the Utility Fund provided for in Section 3.1 above, the following:

(i) Care, preservation and maintenance of the Common Areas, including without the purchase and upkeep of any desired personal property used in connection with the maintenance of the Common Areas.

(ii) The services of a person or firm to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager.

(iii) Legal and accounting services.

(iv) Property insurance and commercial general liability insurance to the extent reasonably available insuring the Association against any liability to the public or to the Owners (and/or invitees or tenants), incident to the operation of the Association, in an amount not less than \$100,000 to indemnify against the claim of one person, \$300,000 against the claims of two or more persons in any one occurrence, and property damage insurance in an amount not less than \$100,000 per occurrence; which policy or policies shall contain an endorsement providing that the rights of the named insureds shall not be prejudiced with respect to actions against other named insureds. Notwithstanding the foregoing, however, all such insurance maintained from time to time by the Association shall comply with the provisions of §38-33.3-313 of the Act.

(v) Workmen's compensation insurance to the extent necessary to comply with any applicable laws.

(vi) Such fidelity bonds as the Board may determine to be advisable.

(vii) Any other materials, supplies, insurance, furniture, labor, services, maintenance, repairs, taxes or Assessments (including taxes or Assessments assessed against an individual Owner) which the Board is required to obtain or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration.

(b) The Board, for the benefit of the Properties and the Owners, shall further be authorized to pay from the funds held from time to time by the Association in the Utility Fund, but not otherwise, all costs and expenses of whatever kind or character deemed necessary or appropriate by the Board in connection with the construction and installation of the Utility Lines, including without limitation amounts paid to contractors, subcontractors, materialmen and suppliers.

(c) The Board shall have the following additional rights, powers and duties:

(i) To borrow funds to pay costs of operation, secured by assignment or pledge of rights against delinquent Owners, if the Board sees fit, including without limitation the borrowing of funds from time to time from Declarant.

(ii) To enter into contracts, maintain one or more bank accounts (granting authority as the Board shall desire to one or more persons to sign checks), and, generally, to have all the powers necessary or incidental to the operation and manage of the Association.

(iii) To protect or defend the Common Areas from loss or damage by suit or otherwise, and to provide adequate reserve for maintenance and repairs.

(iv) To make reasonable rules and regulations for the maintenance and protection of the Common Areas, and to amend them from time to time, provided that any rule or regulation may be amended or repealed by an instrument in writing signed by a majority of the Members.

(v) To make available to each Owner upon written request within sixty (60) days after the end of each year an annual report.

(vi) To adjust the amount, collect, and use any insurance proceeds to repair damage or replace lost property, and if proceeds are insufficient to repair damage or replace lost property, to assess the Members in proportionate amounts to cover the deficiency.

(vii) To enforce the provisions of this Declaration and any rules made hereunder and to enjoin and seek damages from any Owner for violation of such provision or rules.

4.2 Board Power - Exclusive. The Board shall have the exclusive right to contract for all goods, services, and insurance, payment for which is to be made from the Maintenance Fund or the Utility Fund and the exclusive right and obligation to perform the functions of the Board, except as otherwise provided herein.

4.3 Liability Limitations. Neither Declarant, any member of the Board, any Member, nor any officer of the Association shall be personally liable for any debts, duties or obligations incurred by or on behalf of the Association or for any tort committed by another person, whether such person was acting on behalf of the Association or otherwise. Additionally, neither Declarant nor the Association, and their respective directors, officers, agents or employees, shall be liable for any incidental or consequential damages occasioned by any act or omission in connection with this Declaration or the Properties or for any failure to repair or maintain any of the Properties. Under no circumstances shall Declarant, its directors, officers, agents or employees, ever be held liable or responsible for any damages or injuries of any kind or character or nature whatsoever resulting from any act, conduct, omission or behavior relating to the Association and/or the Properties if undertaken in good faith, or for any act, conduct, omission or behavior of any individual, group of individuals, entity or enterprise occurring on, within or related to the Properties.

ARTICLE V

ROADS AND EASEMENTS

5.1 Private Roads. The Roads situated and to be situated within the Properties and shown on the Plats are and shall be private roads created by easement which have not been dedicated to, and are not owned by, the County. The following special provisions are applicable to the Roads:

(a) Each Owner and such Owner's family members, guests and invitees, shall have and are hereby granted the free and uninterrupted use, liberty, privilege and easement for vehicular and pedestrian passage and access in, upon, over and across the Roads, subject to the terms and conditions hereinafter set forth. The foregoing easement herein granted shall be permanent, perpetual and non-exclusive.

(b) The Association shall, and has the sole responsibility to, maintain the Roads in such manner and at such times as the Board shall determine from time to time. The County shall have no obligation or right to maintain the Roads or to provide any street cleaning services. All costs and expenses incurred by the Association in maintaining the Roads shall be paid from the Maintenance Fund provided in Section 3.1 hereof.

(c) The Association shall, as part of the Maintenance Fund, have the right at its election to establish and maintain a road reserve fund (the "Road Reserve Fund") to pay future extraordinary maintenance costs of the Roads, which Road Reserve Fund shall be maintained with a portion of the Assessments collected by the Association. The amount of the Assessments allocable to the Road Reserve Fund shall be as determined from time to time by the Board.

(d) Non-exclusive easements are hereby reserved for the benefit of, and granted to, the County, all providers of utility services within the Properties, and all other governmental servicers of the Properties (including without limitation the U.S. Postal Service), to enter onto and use the Roads for the provision of all governmental and utility services necessary and/or required for the benefit of the Owners in the proper exercise of governmental functions and the providing of utility services; including without limitation, the right in the County to remove any vehicle or obstacle from the Roads that impairs emergency access.

(e) Declarant hereby reserves the right to grant easements to the County and to all public utility entities providing utility service to the Properties from time to time, the right to use the Roads to construct, install, maintain, operate, inspect, remove and reconstruct the facilities, equipment and systems that serve the Properties, provided that the County and such utility companies shall repair any damage to the pavement or other improvements on the Roads resulting from any such installation, maintenance, reconstruction or such other work.

(f) The Roads shall be maintained by the Association with a width of approximately sixty (60) feet and a minimum of sixteen (16) feet of driving surface, or in such other manner as the Board may determine from time to time.

(g) At the time an Owner commences construction or development on his Parcel, he shall install at the intersection of the entryway to such Owner's Parcel and the Road a drainage culvert which is not less than twelve (12) inches in diameter to provide for adequate drainage at such entryway.

5.2 Easement Reserved for the Association. Full rights of ingress and egress shall be had by the Association at all times over and upon each Parcel and the Properties for the carrying out by the Association of its rights, functions, duties and obligations hereunder; provided, that any such entry by the Association upon any Parcel shall be made with as minimum inconvenience to the Owner as practical, and any damage caused thereby shall be repaired by the Association at the expense of the Maintenance Fund.

5.3 Utility Easements. Easements for the installation, maintenance, repair and removal of the Utility Lines and other utilities, drainage facilities and floodway easements over, under and across the Properties are reserved by Declarant for its benefit and for the benefit of the Association and their respective successors and assigns. Full rights of ingress and egress shall be held by Declarant and the Association, for their benefit and for the benefit of any property which may from time to time be added to the Properties in accordance with the provisions of this Declaration, at all times over any easement for the installation, operation, maintenance, repair or removal of any utility, together with the right to remove any obstruction that may be placed in such easement that would constitute interference with the use thereof, or with the use, maintenance, operation and/or installation of such utility.

5.4 Easements for Wildlife Authorities. Declarant hereby reserves ingress and egress easements across each Parcel for the benefit of state and federal wildlife agencies for limited use by those agencies in connection with the protection and/or eradication of wildlife within the Properties in accordance with applicable laws.

ARTICLE VI

PROTECTIVE COVENANTS

6.1 No Further Subdivision. No Parcel shall be re-subdivided or otherwise divided into two (2) or more Parcels without the prior written consent of Declarant, which consent may be withheld by Declarant in its sole and absolute discretion.

6.2 No Hunting. No hunting or similar activity of any kind shall be permitted within the Properties.

6.3 Setback Restrictions. No dwelling or other structure may be erected closer than one hundred (100) feet to the front boundary line or fifty (50) feet to the rear or side boundary lines of any Parcel, unless otherwise approved in writing by Declarant.

6.4 Residential Purpose Only. Any Dwelling Unit shall be used for single-family residential purpose only. No building or structure intended for or adapted to business purposes, and no apartment house, lodging house, rooming house, hospital, sanatorium or doctor's office, or other multiple-family dwelling or commercial structure shall be erected, placed, permitted or maintained on any Parcel, or on any part thereof. No improvement or structure whatever, other than a private Dwelling Unit, patio walls, swimming pool, and customary outbuildings, garage, barn and related facilities, may be erected, placed or maintained on any Parcel.

6.5 Rubbish, Etc. No Parcel shall be used in whole or in part for the storage of rubbish or any character whatsoever, nor for the storage of any property or thing that will cause such Parcel to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any Parcel that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of the surrounding property. No refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon.

6.6 Development Activity. Notwithstanding any other provision herein, Declarant and the Association, and their successors and assigns, shall be entitled to conduct on the Properties all activities normally associated with and convenient to the development of the Properties and the sale of individual Parcels within the Properties.

6.7 Signs. No sign or emblem of any kind may be kept or placed upon any Parcel or mounted, painted or attached to any Unit, fence or other improvement upon such Parcel, or upon any vehicle parked on or adjacent to any Parcel, so as to be visible from public view except the following:

(a) For Sale Signs. An Owner may erect one (1) sign on his Parcel, not exceeding 2' x 3' in area, fastened only to a stake in the ground and extending not more than three (3) feet above the surface of such Parcel advertising the property for sale.

(b) Declarant's Signs. Signs or billboards may be erected by Declarant advertising and/or publicizing the Properties, the sale of individual Parcels, and such other matters as Declarant shall deem appropriate.

(c) Name Signs. An Owner may erect one (1) sign on his Parcel designating his ownership of such Parcel and/or any name designation given to such Parcel.

6.8 Commercial or Institutional Use. No Parcel, and no building erected or maintained on any Parcel, shall be used for manufacturing, industrial, business, commercial, institutional or other non-residential purposes.

6.9 Building Standards. No building shall be erected or maintained on any Parcel unless it complies with all applicable governmental requirements, including any applicable building codes and ordinances.

6.10 Antennae, Satellite Dishes and Solar Collectors. No Owner may erect or maintain a television or radio receiving or transmitting antenna or similar implement or apparatus, or solar collector panels or equipment upon any Parcel (other than a satellite dish for the reception of television signals which shall be permitted), unless such apparatus is erected and maintained in such a way that it is screened from public view at a point in the center of the Road or other right-of-way directly in front of the house erected on such Parcel; and no such apparatus shall be erected without the prior written consent of the Association.

6.11 Temporary Structures: Mobile or Modular Homes. No structure of a temporary character, and no mobile or modular home, trailer, basement, tent, shack or similar outbuilding, shall be placed or used on any Parcel at any time as a residence or for any other purpose, either temporarily or permanently. The Board shall have the authority to waive this restriction for any individual Parcel for a period not to exceed ninety days during any calendar year.

6.12 Dwellings and Outbuildings. All Parcels shall be used for residential homes and leisure/seasonal homes. No permanent structure for dwelling purposes shall be built on any Parcel that is less than one thousand two hundred (1,200) square feet of living space, and no Dwelling Unit or other structure shall exceed three (3) stories in height. All outbuildings shall harmonize in appearance with dwelling structures.

6.13 Nuisances. No Owner shall cause or allow the origination of excessive odors or sounds from his Parcel. No Owner shall cause or allow any other nuisances of any kind whatsoever to exist on his Parcel. In case of a dispute, at the request of an affected party, the Association shall make a final determination of what constitutes a nuisance.

6.14 Animals. Livestock and poultry may be kept for only the personal use of each Owner; provided, that the foregoing restriction shall not be applicable to the use of the Properties by the Tenant pursuant to the Grazing Lease. Dogs shall be permitted on each Parcel (other than within the interior of each fully enclosed structure on such Parcel) only if restrained by a leash or limited to an area which is fully enclosed by a fence approved for such purposes by the Board.

6.15 Fences. No partition fence shall be erected or placed on any Parcel unless approved in writing by the Board as to materials and appearance, which approval will not be unreasonably withheld or delayed. Notwithstanding the provisions of §§35-46-112 and 113 of the Colorado Revised Statutes, neither the lessee under the Grazing Lease nor any Owner shall have any obligation to pay any portion of the cost of a partition fence erected by any other Owner. Any fence enclosing ten acres or more of any Parcel shall be an electric fence.

6.16 Discharge of Firearms. No firearms shall be used or discharged on any Parcel except only for the eradication of animal nuisances in accordance with applicable laws.

6.17 Architectural Control. Notwithstanding anything contained herein to the contrary, no structure shall be erected, placed or altered on any Parcel in the Subdivision until the building plans and specifications, together with a plot plan showing the location of the building or other structure on the Parcel, have been submitted to and approved in writing by Declarant as to the conformity and harmony of the exterior design with existing structures in the Subdivision, including without limitation color, type and appearance of exterior surfaces, landscaping, building materials and exterior lighting, and as to the location with respect to topography and finished grade elevation. At such time as Declarant ceases to own any property within the Subdivision, then such architectural control shall be exercised by the Association. In the event that Declarant, or its designated representative, or the Association (as the case may be), fails to approve or disapprove plans and specifications within forty-five (45) days after they have been submitted by any Parcel Owner, then approval shall be deemed to have been given for the improvements or other structures to the extent described in such plans and specifications. Neither Declarant, its designated representative, officers or managers, nor the Association or its directors or officers, shall be liable for damages, claims or causes of action arising out of or in connection with any action taken under this Section 6.17.

6.18 Utilities to be placed underground. All utility lines shall be installed underground, unless the Declarant grants written permission to deviate from this requirement.

ARTICLE VII

GENERAL PROVISIONS

7.1 Power of Attorney. So long as Declarant has majority control of the Board of Directors of the Association as provided in Article II, Section 2.3 of this Declaration, each and every Owner and Member hereby makes, constitutes and appoints Declarant as his/her true and lawful attorney-in-fact, coupled with an interest and irrevocable, for him/her and in his/her name, place and stead and for his/her use and benefit, to do the following:

(a) to exercise, do or perform any act, right, power, duty or obligation whatsoever in connection with, arising out of, or relating to any matter whatsoever involving this Declaration and the Properties;

(b) to sign, execute, acknowledge, deliver and record any and all instruments which modify, amend, change, enlarge, contract or abandon the terms within this Declaration, or any part hereof, with such clause(s), recital(s), covenant(s), agreement(s) and restriction(s) as Declarant shall deem necessary, proper and expedient under the circumstances and conditions as may be then existing; and

(c) to sign, execute, acknowledge, deliver and record any and all instruments which modify, amend, change, enlarge, contract or abandon the subdivision plat(s) of the Properties, or any part thereof, with any easements and rights-of-way to be therein contained as the Declarant shall deem necessary, proper and expedient under the conditions as may then be existing; provided, however, that any amendment of the provisions of Article VI hereof shall require the written consent or affirmative vote of at least seventy-five percent (75%) of the Owners of Parcels within the Properties.

The rights, powers and authority of said attorney-in-fact to exercise any and all of the rights and powers herein granted shall (i) be subject to any limitations contained in §38-33.3-217 of the Act, and (ii) commence and be in full force upon recordation of this Declaration in the County Clerk's Office in Fremont and Custer Counties..

7.2 Duration. This Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Association and/or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for an original fifty (50) year term expiring on the fiftieth (50th) anniversary of the date of recordation of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years unless an instrument is signed by the Owners of at least seventy-five percent (75%) of all Parcels within the Properties and recorded in the Deed Records of Fremont and Custer Counties, Colorado, which contains and sets forth an agreement to abolish this Declaration; provided, however, no such agreement [where approved by less than seventy-five percent (75%) of the Owners of all Parcels within the Properties] to abolish shall be effective unless made and recorded one (1) year in advance of the effective date of such abolishment. No termination of this Declaration shall, however, affect any easements granted or reserved pursuant to the terms hereof, all of which shall survive and continue in full force and effect thereafter.

7.3 Amendments. This Declaration expressly subject to change, modification and/or deletion by means of amendment at any time and from time to time as provided herein. This Declaration may be amended and/or changed in part as follows:

(a) In response to any governmental or quasi-governmental suggestion, guideline, checklist, requisite or requirement, particularly with respect to those entities or agencies directly or indirectly involved in, or having an impact on, project development, mortgage financing, mortgage insurance and/or reinsurance, Declarant shall have the complete and unrestricted right and privilege to amend, change, revise, modify or delete portions of this Declaration, and each and every Owner and Member specifically and affirmatively authorizes and empowers Declarant, utilizing the attorney-in-fact status set forth in Section 7.1 above, to undertake, complete and consummate any and all such amendments, changes, revisions, modifications or deletions as Declarant (in its sole and absolute discretion) shall deem reasonable and appropriate.

(b) Declarant may otherwise amend or change these Covenants by exercising its powers under Section 7.1 hereinabove or with the direct consent of at least seventy-five percent (75%) of the Owners of Parcels within the Properties.

(c) At such time as Declarant no longer owns any Parcel within the Properties, this Declaration may be amended by the written consent of at least seventy-five percent (75%) of the Owners of Parcels within the Properties.

Any and all amendments shall be recorded in the Offices of the County Clerks of Fremont County and Custer County, Colorado.

7.4 Enforcement. Each Owner of each Parcel shall be deemed, and held responsible and liable for the acts, conduct and omission of each and every Resident, Member, guest and invitee affiliated with such Parcel, and such liability and responsibility of each Owner shall be joint and several with their Resident(s), Member(s), guests and invitees. The lien created hereby on each Parcel shall extend to, cover and secure the proper payment and performance by each and every Resident, Member, guest and invitee affiliated with each Owner. Unless otherwise prohibited or modified by law, all parents shall be liable for any and all personal injuries and property damage proximately caused by the conduct of their children (under the age of 18 years) within the Properties. Enforcement of this Declaration may be initiated by any proceeding at law or in equity against any person or persons violating or attempting to violate them, whether the relief sought is an injunction or recovery of damages, or both, or enforcement of any lien created by this Declaration, but failure by the Association or any Owner to enforce any Covenant herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association and the County are each specifically authorized (but not obligated) to enforce this Declaration. With respect to any litigation hereunder, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, from the non-prevailing party.

7.5 Validity. Violation of or failure to comply with this Declaration shall not affect the validity of any mortgage, bona fide lien or other similar security instrument which may then be existing on any Parcel. Invalidation of any one or more of the provisions of this Declaration, or any portions thereof, by a judgment or court order shall not affect any of the other provisions or covenants herein contained, which shall remain in full force and effect. In the event any portion of this Declaration conflicts with mandatory provisions of any ordinance or regulation promulgated by the County then such County requirement shall control.

7.6 Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration. Words of any gender used herein shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and vice versa, unless the context requires otherwise. Examples, illustrations, scenarios and hypothetical situations mentioned herein shall not constitute an exclusive, exhaustive or limiting list of what can or cannot be done.

7.7 Registration with the Association. Each and every Owner, Member and Resident shall have an affirmative duty and obligation to originally provide, and thereafter revise and update, within fifteen (15) days after a material change has occurred, various items of information to the Association such as: (a) the full name and address of each Owner, Member and Resident, (b) the full name of each individual family member who resides within the residential dwelling of the Parcel Owner, (c) the business address, occupation and telephone numbers of each Resident; (d) the description and license plate number of each automobile owned or used by a Resident and brought within the Properties; (e) the name, address and telephone numbers of other local individuals who can be contacted (in the event the Resident cannot be located) in case of an emergency; and (f) such other information as may be reasonably requested from time to time by the Association. In the event any Owner, Member or Resident fails, neglects or refuses to so provide, revise and update such information, then the Association may, but is not required to, use whatever means it deems reasonable and appropriate to obtain such information and the offending Owner, Member and Resident shall become automatically jointly and severally liable to promptly reimburse the Association for all reasonable costs and expenses incurred in so doing.

7.8 Notices to Resident/Member/Owner. Any notice required to be given to any Resident, Member or Owner under the provisions of this Declaration shall be deemed to have been properly delivered when (i) deposited in the United States Mail, postage prepaid, addressed to the last known address of the person who appears as the Resident, Member or Owner on the records of the Association at the time of such mailing, or when (ii) delivered by hand or by messenger to the last known address of such person within the Properties; or when (iii) posted on the Association's bulletin board for at least thirty (30) consecutive calendar days.

7.9 Notices to Mortgagees. The holder(s) of a mortgage may be furnished with written notification from the Association of any default by the respective mortgagor/Member/Owner in the performance of such mortgagor's/Member's/Owner's obligation(s) as established by this Declaration, provided that the Association has been theretofore furnished, in writing, with the correct name and address of such mortgage holder(s) and a request to receive such notification and a reasonable supply of self-addressed, stamped envelopes.

7.10 Disputes. Matters of dispute or disagreement between Owners, Residents or Members with respect to interpretation or application of the provisions of this Declaration or the Association Bylaws, shall be determined by the Board. These determinations (absent arbitrary and capricious conduct or gross negligence) shall be final and binding upon all Owners, Residents and Members.

7.11 Additions to the Properties. The initial Properties made subject to the terms and provisions of this Declaration are the second phase of a development by Declarant which is anticipated to contain four phases; provided, that Declarant shall have no obligation whatsoever to add any additional phases to the Properties except in the sole and absolute discretion of Declarant. The remaining properties which Declarant shall have the right to add to the Properties in accordance with the preceding sentence are the properties described as Beckwith Mountain Ranch Filing No. 3, and Beckwith Mountain Ranch Filing No. 4, plats of which have been recorded in the Offices of the Clerk and Recorder of Fremont and Custer Counties, Colorado (the "Additional Properties"). Declarant may from time to time add all or any portion of the Additional Properties to the concept of this Declaration by filing of record a Supplementary Declaration of Covenants, Conditions and Restrictions, which extend the concept of the covenants, conditions and restrictions of this Declaration to such additional property; provided, however, that such Supplementary Declaration may contain such complimentary additions and additions to the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the concept of this Declaration.

7.12 Grazing Lease. The Properties and this Declaration are subject to the terms and provisions of the Grazing Lease. As provided in the Grazing Lease, the rent payable under the Grazing Lease which is allocable to each sold Parcel (which is to be prorated on an acreage basis) shall, from and after the first day of the next succeeding calendar year following such sale, be paid by the Tenant to the Association. All such rents paid to the Association shall be deposited by the Association into the Maintenance Fund and shall thereafter be used by the Association in connection with the performance of its duties and obligations as determined from time to time by the Board. No Owner shall have any rights whatsoever with respect to any rents or other amounts payable under the Grazing Lease notwithstanding that the Grazing Lease shall continue to be applicable to such Owner's Parcel after the date of the closing of the purchase of such Parcel. Notwithstanding anything contained herein or in the Grazing Lease to the contrary, whether express or implied, each payment of rent and any other amount payable to the Association by Declarant under the Grazing Lease shall for all purposes be deemed to be a payment (pro rata) to the Owners of the Parcels

covered thereby and a deemed contribution of such amount by such Owners to the Association. Each such deemed contribution by each Owner to the Association shall constitute a credit against, and be deducted from, the Assessments due and payable by such Owner to the Association hereunder.

Witness the hand of an authorized representative of Declarant on the acknowledgment date noted below.

DECLARANT:

BECKWITH MOUNTAIN RANCH COMPANY,
LLC, a Colorado limited liability company

By: Paul R. Seegers

Paul R. Seegers, Manager

Address:

8222 Douglas Avenue, Suite 790
Dallas, TX 75229

THE STATE OF COLORADO

COUNTY OF CUSTER

This instrument was acknowledged before me on the 30th day of August, 1996, by Paul R. Seegers, Manager of BECKWITH MOUNTAIN RANCH COMPANY, LLC, a Colorado limited liability company, on behalf of said limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 30th day of August, 1996.

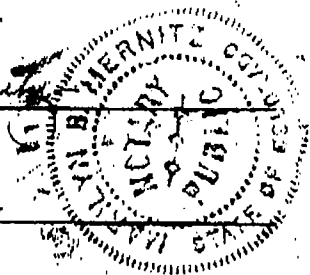
Marilyn B. Mernitz
NOTARY PUBLIC IN AND FOR
THE STATE OF COLORADO

MARILYN B. MERNITZ

WESTCLIFFE, CO

My Commission Expires:

MY COMMISSION EXPIRES 4/14/98



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