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**DECLARATION OF PROTECTIVE
COVENANTS FOR ELKHORN RANCH
DURANGO, COLORADO**

December 24, 1997

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**DECLARATION OF PROTECTIVE
COVENANTS FOR ELKHORN RANCH
DURANGO, COLORADO**

1. DECLARATION - PURPOSES.

1.1 General Purposes. Elkhorn Holding, LLC, a Colorado limited liability company (hereafter sometimes referred to as "Elkhorn") is the owner of certain real property located in La Plata County, Colorado, known as Elkhorn Ranch. Elkhorn intends to develop said property into Ranch Estates as a private ranch community. Elkhorn intends that owners, trustee beneficiaries, Mortgagees and any other persons or entities now or hereafter acquiring any interest in Elkhorn Ranch shall hold such interest subject to all the rights, privileges, obligations and restrictions set forth in this instrument. In addition, Elkhorn Ranch Property Owners Association has been created to perform certain obligations described herein and, if necessary, to own, hold, operate and manage property for the common benefit of all owners of Elkhorn Ranch.

1.2 Declaration. To further the purposes herein expressed: (a) Elkhorn, for itself, its successors and assigns, with respect to Elkhorn Ranch as defined and described in the Plat thereof recorded December ^{29th} 1997 in the real estate records of La Plata County, Colorado, under Reception No. 738014, and (b) Elkhorn Ranch Property Owners Association, for itself, its successors and assigns, hereafter sometimes referred to as the "Association", hereby declare that all said land shall at all times be owned, held, used and conveyed subject to the terms, provisions, conditions and restrictions contained in this instrument, which terms, provisions, conditions and restrictions shall constitute covenants running with the land and shall be binding upon and inure to the benefit of Elkhorn and Elkhorn Ranch Property Owners Association as to their respective interests and to any person or legal entity acquiring an interest in Elkhorn Ranch.

2. DEFINITIONS AND AREA DESIGNATIONS.

2.1 Allocated Interests shall mean the Common Expenses liability and the votes in the Association allocated to each Ranch Estate, which interests are allocated as follows:

The Common Expenses liability for each Ranch Estate is calculated on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of Ranch Estates in Elkhorn Ranch as of the date of the calculation. Such fraction is then multiplied by the Common Expenses or the Assessment in question to determine that Ranch Estate's share thereof. The Common Expenses liability of a Ranch Estate is determined without reference to the size, location, value or use of the Ranch Estate.

One vote in the Association is allocated to each Ranch Estate in Elkhorn Ranch.

The foregoing allocations may not discriminate in favor of Ranch Estates owned by Declarant or an affiliate of Declarant.

If Ranch Estates are added to Elkhorn Ranch, (i) the Common Expenses liability for each Ranch Estate shall be reallocated on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of Ranch Estates in Elkhorn Ranch following the addition of such Ranch Estates, and (ii) one vote in the Association shall continue to be

allocated to each Ranch Estate in Elkhorn Ranch following the addition or withdrawal of such Ranch Estates.

2.2 Annexable Property shall mean that real property which is not shown on the plat of Elkhorn Ranch, but which may be annexed to Elkhorn Ranch in accordance with this Declaration. The real property which comprises the Annexable Property is described on Exhibit "A" attached. In the sole discretion of the Declarant all or portions of the Annexable Property may be annexed to Elkhorn Ranch in accordance with Section 8.7a below. Until such time as the Annexable Property is annexed to Elkhorn Ranch, it shall not be subject to this Declaration and the restrictions or limitations contained herein.

2.3 Annual Assessments shall mean the charges levied and assessed each year against a Ranch Estate pursuant to Section 5.2 below.

2.4 Articles shall mean Articles of Organization and any amendments thereto for Elkhorn Ranch Property Owners Association, a Colorado non-profit corporation.

2.5 Assessments shall mean both Annual (which in this context shall mean regular) Assessments and Special Assessments.

2.6 Association shall mean the Elkhorn Ranch Property Owners Association, formed for the purpose of furthering the common interests of Owners of all Ranch Estates within Elkhorn Ranch.

2.7 Board or Board of Directors shall mean the governing Executive Board of the Association.

2.8 Colorado Common Interest Ownership Act (CCIOA) shall mean the Colorado Common Interest Ownership Act, § 38-33.3-101, *et seq.*, which shall be known as "CCIOA".

2.9 Common Expenses shall mean estimated and actual expenditures made or to be made by or on behalf of the Association, together with any allocations to reserve or sinking funds.

2.10 County shall mean La Plata County, Colorado.

2.11 Declarant shall mean Elkhorn Ranch, LLC, a Colorado limited liability company ("Elkhorn") and any party designated as a successor or assign of the Declarant by written instrument duly recorded in the real property records of La Plata County, Colorado, which instrument, to be effective, need only be signed by Elkhorn. Such instrument may specify the extent and portion of the rights or interest being assigned by Declarant, in which case Elkhorn shall retain all other rights of Declarant not so assigned. Unless otherwise provided hereunder, all privileges, rights, interests, entitlements, duties, obligations, functions and responsibilities of Declarant shall belong to and be carried out solely by Elkhorn. In this Declaration the term "Elkhorn" may be used interchangeably with the term "Declarant".

2.12 Declaration shall mean this Declaration of protective covenants for Elkhorn Ranch as recorded in the real property records of La Plata County, Colorado, and as amended from time to time.

2.13 Developable Areas shall mean those areas within a Ranch Estate upon which development activity may occur and which include building envelopes.

2.14 Design Review Committee, sometimes referred to as the DRC, shall mean either the Board of Directors or committee appointed by the Board of Directors of the Association for the purpose of reviewing and approving the design and construction of improvements or changes to lands within Elkhorn Ranch.

2.15 Design Review Guidelines shall mean those guidelines set forth in the Elkhorn Design and Construction Guidelines adopted by the Design Review Committee for the purpose of providing persons who desire to construct improvements on Ranch Estates with design and construction criteria guidelines.

2.16 Eligible Mortgage Holder shall mean the holder of any first priority Mortgage encumbering a Ranch Estate that has given written notice to the Association of said Mortgage. Such notice shall include a true copy of the Mortgage as recorded.

2.17 Elkhorn Ranch shall mean all the property shown on the Elkhorn Plat, including, but not necessarily limited to, the Ranch Estates, Roads, and any additions or deletions thereto as permitted under this Declaration.

2.18 Member or Members shall mean Owners of Ranch Estates who are Members of the Association. There shall be a maximum of seventeen (17) Association Members.

2.19 Mortgage shall mean any Mortgage, deed of trust or other security instrument creating a real property security interest in any Ranch Estate, excluding any statutory, tax or judicial lien.

2.20 Mortgagee shall mean any grantee or beneficiary of a Mortgage.

2.21 Mortgagor shall mean any grantor or trustor of a Mortgage.

2.22 Owner shall mean the person or persons or legal entity holding record fee simple title to a Ranch Estate. Declarant shall be entitled to treat the record title holder of a Ranch Estate as the Owner thereof for all purposes.

2.23 Paving shall mean the final hard surface determined by Declarant or the Association for Roads and driveways within Elkhorn Ranch.

2.24 Planned Community. Elkhorn Ranch is a planned community pursuant to the requirements of C.R.S. § 38-33.3-205(1)(a).

2.25 Plat shall mean the Plat for Elkhorn Ranch recorded under Reception No. _____ of the real property records of La Plata County, Colorado, and any amendments thereto.

2.26 Ranch Estates shall mean subdivided parcels of land designated by number on the Plat.

2.27 Roads shall mean those access Road easements, including such improvements as bridges, culverts, and the like, throughout the subdivision shown on the Plat which provide general access to the Elkhorn Ranch and its improvements. Roads shall consist of: (i) Elkhorn Road as the "Primary Roadway"; (ii) any "Secondary Roadways"; (iii) "Shared Drives" providing access to some Ranch Estates; and (iv) "Private Drives" providing access within a Ranch Estate to its developable area.

2.28 Special Assessments shall mean any special or extraordinary assessment levied and assessed pursuant to Section 5.3 below.

2.29 Utilities shall mean those underground Utilities under Roads, including Primary and Secondary Roadways and Private and Shared Drives, and other utility easements as shown on the Plat which will generally service the Ranch Estates, and other common areas within Elkhorn Ranch.

2.30 Water Amenities shall mean all water and water-related improvements including ponds, ditches, water conveyancing channels, water systems and the like.

2.31 Water Right Allocation Plan shall mean a plan on file with Declarant and the Association providing for the ongoing implementation, development, improvement, management and monitoring of Water Rights and Water Amenities.

2.32 Water Rights shall mean all Water and Water Rights, including any legal rights related thereto, for water appurtenant to and benefiting the Elkhorn Ranch and its owners as their interest may appear, less and except all water from the Elkhorn Ditch.

3. ASSOCIATION MEMBERSHIP.

3.1 Formation of Association. The Association shall be a nonprofit Colorado corporation charged with the duties and invested with the powers prescribed by law and as set forth in its Articles, Bylaws and this Declaration. Neither the Articles nor Bylaws of the Association shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

3.2 Board of Directors and Officers. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with its Articles and Bylaws as the same may be amended from time to time. The Association, by and through the Board, shall govern and manage the Elkhorn Ranch, including Association property, and shall enforce the provisions of this Declaration. The initial Board shall be composed of three Members. The Board may also appoint various committees. Elkhorn, during the "Declarant Control Period", shall have the right to appoint and remove Directors and officers. The Declarant Control Period commences on the date on which Declarant forms the Association and terminates on the earliest to occur of:

- (i) sixty days after conveyance to Purchasers of 75 percent of the maximum number of Ranch Estates that may be created by Declarant pursuant to the Declaration;

- (ii) two years after the last conveyance of a Ranch Estate by Declarant or a Successor Declarant to a Purchaser in the ordinary course of business; or
- (iii) two years after any right under the Declaration to add new Ranch Estates was last exercised.

Declarant may voluntarily surrender the right to appoint and remove Directors and officers before termination of the Declarant Control Period. In that event, the Declarant may require, for the duration of the Declarant Control Period, that specified actions of the Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

3.3 Association Rules. The Association may, by a majority vote of the Board, adopt, amend and repeal rules and regulations to be known as the Elkhorn Ranch "Association Rules". The purpose of the Association Rules shall be to implement, supplement or otherwise carry out the purposes and intentions of this Declaration; provided such Association Rules must be consistent with this Declaration.

3.4 Limited Liability. Neither the Association nor its past, present or future, officers, directors, employees, agents, or committee members of the Association shall be liable to any Owner or to any other person for any damage, act, omission to act, simple negligence, or other matter of any kind or nature, except gross negligence. Without limiting the foregoing, the Association and the Board shall not be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice. Acts taken upon the advice of legal counsel, certified public accountants, registered or licensed engineers, architects or surveyors shall conclusively be deemed to be in good faith and without malice. To the extent insurance carried by the Association for such purposes shall not be adequate, the Owners severally agree to indemnify the Association and Board against loss resulting from such action or failure to act, provided that the Association and the Board acted or failed to act in good faith and without malice.

3.5 Membership. The Association shall be a membership association without certificates or shares of stock. The Members of the Association shall be those persons or entities, including Elkhorn, who are the Owners, from time to time, of Ranch Estates in Elkhorn Ranch. Membership in the Association shall automatically terminate when a Member ceases to be an Owner of a Ranch Estate. There shall be one class of membership which is a voting membership by Owners of Ranch Estates.

3.6 Voting. A Member shall have one (1) vote for each Ranch Estate such Member may own. The affirmative vote of a majority of the total of all Members entitled to vote on any matter shall constitute approval of such matter. Where there are multiple Owners of a Ranch Estate, there shall remain only one vote for such Ranch Estate. If only one of the multiple Owners of the Ranch Estate is present at a meeting of the Association, such Owner shall be entitled to cast the vote allocated to that Ranch Estate. If more than one of the multiple Owners are present, the vote allocated to that Ranch Estate may be cast only in accordance with the agreement of a majority in interest of the Owners of that Ranch Estate. The provisions of C.R.S. § 38-33.3-310(1) and (2)

regarding voting shall apply to Ranch Estates with multiple Owners. For all elections of Board Members, those candidates receiving the highest number of votes shall be deemed elected. Lessees of Ranch Estates shall have no voting rights.

3.7 Enforcement. The Association and Elkhorn shall each have the right and power to bring suit in their respective names for legal or equitable relief for the failure to comply with any provision of this Declaration or rules promulgated by the Board or DRC. In addition, the Association shall have the right to impose on any Owner monetary fines for any lack of compliance with provisions of this Declaration or rules promulgated by the Board or DRC and where such fines are not paid within the time provided, such fines may be collected as an Assessment Lien. The failure of the Association or Elkhorn to insist upon the strict performance of any such provisions or to exercise any right or option available to it, or to serve any notice or to institute any action, shall not be a waiver or relinquishment for the future of any such provision or the enforcement thereof. Any Owner aggrieved by a lack of compliance by another Owner may also bring suit for legal and equitable remedies. If any court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to reimbursement of its costs and expenses, including reasonable attorney's fees, in connection therewith.

3.8 Power of Association. Each Owner agrees that the Association has all the powers granted to it by the Colorado Nonprofit Corporation Act and CCIOA, and any amendments thereto or replacements thereof. Such powers shall include, without limitation, levying Assessments against Owners, imposing a lien on Ranch Estates for any unpaid or uncollected Assessments or penalties, and foreclosing any such liens, enforcing any deed restrictions and these Declarations, acquiring, holding, owning, leasing, mortgaging and disposing of property (except as such disposition of property may be limited in accordance with Section 3.12 below), the adoption of rules and regulations, the defending, prosecuting or intervention in litigation on behalf of all Members, the borrowing of monies for Association purposes and the right to pledge future income in order to secure such borrowings. The term "pledge of future income" shall include the right to impose a Special Assessment for repayment of such borrowings and to assign such Special Assessment (and all lien and collection rights appurtenant thereto) to the lender as security for repayment thereof. The Association may exercise any other right, power or privilege, given to it by this Declaration, the Articles and Bylaws of the Association, or by law.

3.9 Other Association Functions. The Association shall undertake those functions and provide those services to Elkhorn Ranch as described in this section or otherwise set forth in this Declaration. Further, the Association may undertake, to the extent the Board in its sole discretion so elects, to provide Elkhorn Ranch certain other functions or services for the benefit of its Members on such bases as the Board may reasonably determine. Such functions may be provided by the Association's employees or an independent contractor retained by the Association. With respect to any Elkhorn Ranch functions or services, the Board shall have the authority to make common expense assessments consistent with the provisions of C.R.S. § 38-33.3-315.

The Association shall provide, but shall not be limited to, the following functions or services: (i) maintenance, repair, and operation of primary and secondary roadways (including the ranch entrance and entrance area improvements); (ii) maintenance, repair, and operation of all common Utilities; (iii) maintenance, repair, and operation of all common Water Rights and Water Amenity improvements; (iv) maintenance and repair of Association fences; (v) trash removal; (vi) snow removal on all Roads; and (vii) Association signs.

3.10 Notice to Maintain. An Owner shall immediately report to the Association, in writing, the need for any maintenance, repair or replacement which is the Association's responsibility to provide. In the event of any disagreement as to the need for or the responsibility of the Association to provide the said maintenance, repair or replacement, the good faith decision of the Board shall be final.

3.11 Mechanic's Liens. Elkhorn shall be responsible for the release of all mechanic's liens filed with respect to the Association property, or any part thereof, if any such liens arise or are alleged to arise from labor performed or materials furnished at the instance of Elkhorn, its agents, contractors or subcontractors. Except as the result of labor performed or materials furnished at the instance of the Board, no labor performed or materials furnished with respect to Association property or Ranch Estates shall be the basis for filing a lien against any Association property.

3.12 Special Provisions Regarding Association Property. All Association common property, including, but not necessarily limited to, Association business offices, Roads, Utilities, Water Rights, and Water Amenities, shall, at all times, be owned, managed, operated, and maintained by the Association consistent with the provisions of this Declaration and in trust for the use, benefit and enjoyment of all or some of the Owners of Ranch Estates, together with their family members, permitted guests and permitted invitees. Owners must, at all times, accompany guests and invitees when such guests and invitees are using and enjoying Association property except as to sales or leases in the ordinary course of Elkhorn Ranch operations; conveyancing or encumbrance of Association property can only occur consistent with the provisions of C.R.S. § 38-33.3-312.

4. ARCHITECTURAL CONTROLS.

4.1 Design Review Committee. The DRC shall be composed of at least three (3) natural persons appointed by the Board. Persons serving on the DRC shall serve at the pleasure of the Board. The Board may remove a Member of the DRC and appoint a new Member at any time, provided there shall at all times be at least three (3) persons serving on the DRC. The Members of the DRC may or may not be Board Members or Owners and may include one or more professionals such as an architect paid by the Association to perform such services. The DRC shall have and exercise all the powers, duties and responsibilities set out in this Declaration. The DRC may at the expense of the Association hire any professionals or a secretary or other personnel to perform administrative, clerical and other functions. So long as Elkhorn elects a majority of the Board of the Association, then Elkhorn may also act as the DRC hereunder.

4.2 Authority. No development or construction of improvements of any nature whatsoever to, or on any property within the Elkhorn Ranch, including changes in natural conditions, shall occur until the Design and Construction Guidelines have been fully met and approval has been given consistent with the Design Review Guidelines requirements. The Design Review Guidelines shall address, but shall not be limited to, matters such as the construction of dwellings or other structures, outbuildings, well enclosures and pipelines, fences, grading, landscaping, Water Amenities, parking areas, walls, garages, Roads including Private Drives, satellite dishes or the like. Notwithstanding this, any work performed by or on behalf of Elkhorn, as Elkhorn develops the Elkhorn Ranch including, but not limited to, the construction, subdivision, infrastructure, and Ranch amenities, or the like, shall not require the approval of the Association or the DRC. Where Elkhorn shall cease to act as the DRC (see Section 4.1), the approval of Elkhorn

shall still be required for the initial construction of any residence on the Elkhorn Ranch. This approval requirement shall be limited to the initial construction of the residences on Ranch Estates and shall continue so long as Elkhorn remains the Owner of any Ranch Estates.

4.3 Approvals. Anyone who desires to construct improvements on their Ranch Estate must make the submittals and follow the procedures required by the Design Review Guidelines. DRC shall not be committed or bound by any preliminary or informal approvals or disapprovals. All submittals may be disapproved if such submittals do not contain sufficient information for DRC to exercise the judgment required of it.

4.4 Building Permit. An Owner may apply for a building permit from the County at any time; provided, however, the plans submitted to the County shall not differ in any way from the plans approved by the DRC. If the plans submitted to the County differ in any way from the plans approved by the DRC, all approvals of the DRC shall be deemed automatically revoked.

4.5 Variances. DRC, by the affirmative vote of a majority of its members, may allow variances as to the Design Review Guidelines based on variance policies and rules promulgated by DRC and/or the Association. Any matter requiring a variance from County land use, building or zoning regulations shall also require approval from DRC.

4.6 General Standards. DRC may evaluate, among other things, all design, construction, aesthetic, and other architectural matters related to improvements within Elkhorn Ranch, consistent with the Plat, this Declaration, the Design Review Guidelines, and its rules and regulations.

4.7 Rules and Regulations. The Association and/or DRC may promulgate and adopt rules and regulations necessary to implement these Declarations. These rules and regulations include the Design Review Guidelines and may include submission requirements concerning the type of information, reports, plans and specifications and the like which need to be submitted for the construction of improvements on Ranch Estates. These rules and regulations need not be uniform for each Ranch Estate. The rules and regulations may take into account the unique character of each Ranch Estate. By way of illustration only and without requirement to do so, the Design Review Guidelines and rules and regulations may address, and the Association and/or DRC shall have the power and authority to regulate, any or all of, the following: application forms, bonds, letters of credit, all matters relating to architecture, design, location and construction of improvements within the Elkhorn Ranch, temporary construction facilities and storage of construction materials, grading and erosion control, landscaping and vegetation, fencing, lighting, signs, paths and trails, preservation of wildlife, privacy and general visual characteristics. The Design Review Guidelines and rules and regulations shall be adopted, amended, or replaced by affirmative vote of the Association Board, in consultation with DRC, and with the approval of Elkhorn. Elkhorn's approval shall no longer be required at such time as Elkhorn ceases to be the Owner of any Ranch Estate. Elkhorn may, at any time, waive and release the requirement to obtain its approval.

4.8 Design Review Committee Not Liable. The DRC, the Association, and Declarant shall not be liable for damages to any person submitting any plans for approval, or to any Owner or Owners of lands within the Elkhorn Ranch, by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such plans. The DRC, the Association, and Declarant shall have no liability or responsibility for any representations made to

any Owner or prospective Owner by any third parties. These liability protections shall extend to, protect, and benefit all applicable board members, officers, members, managers, employees and agents of the DRC, the Association and the Declarant. The decision of the DRC shall be governed by these Declarations and any rules or regulations duly adopted by the Association pursuant to these Declarations.

4.9 Written Records. The DRC shall keep and safeguard complete and permanent written records of all approved applications, including one set of the finally approved architectural and site development plans, and of all actions of approval or disapproval and all other formal actions taken by it under the provisions of this instrument. The records of the DRC shall be maintained for a reasonable period of time by the secretary of the Association at his residence or office.

4.10 Inspection and Compliance. The DRC shall have no duty or obligation to make inspections of any construction; however, nothing herein shall prevent the DRC from making inspections prior to or after completion. Upon the completion of any work for which approved plans and specifications are required, the Owner shall give written notice of completion to the DRC. Upon such notice DRC shall then undertake the final inspection of the work consistent with the final inspection terms and procedures as set forth in the Design Review Guidelines. In addition to the terms and procedures set forth in the Design Review Guidelines, if the DRC finds that the work was not done in substantial compliance with the approved plans or any construction or change in natural conditions on any Ranch Estate was undertaken without first obtaining approval from DRC, written notice shall be sent by the Board to such Owner specifying the noncompliance and requiring the Owner to cure such noncompliance within thirty (30) days or any extension thereof granted. If the Owner fails to cure the noncompliance or to enter into an agreement to cure on a basis satisfactory to DRC within said thirty (30) day period or any extension thereof as may be granted, the Board may, at its option, cause the noncomplying improvement to be removed or the noncompliance to be cured. Upon demand, the Owner shall reimburse the Association for all costs and expenses incurred by the DRC in taking corrective action, plus all costs incurred in collecting amounts due, including reasonable attorneys' fees and costs and any amounts not paid may, without waiver of any other right or remedy, be collected as an Assessment Lien. The Owner shall be personally liable for all such costs and expenses, and the Association shall also have a lien against the noncomplying Ranch Estate for the amount of all such costs and expenses. Such lien shall exist, be subject to, and be governed by CCIOA. Notwithstanding any other provision hereof, the DRC shall not be responsible for: (a) determining that any construction or construction documents conform to applicable building codes, zoning or other land use regulations, (b) for the accuracy or content of any construction documents or specifications prepared by any architect, engineer or any other person, (c) construction means, methods, techniques, sequences or procedures, safety precautions or subsequent loss, damage or failures due to soil or any other natural or man-made conditions that may exist, or (d) any failure to carry out any construction in accordance with plans or specifications.

5. ASSESSMENTS.

5.1 Purpose of Assessments; Assessment Lien. All Members of the Association hereby covenant and agree, and each Owner by acceptance of a deed to a Ranch Estate, including public trustee or sheriff's deed, is deemed to covenant and agree, to pay the Association both Annual Assessments and Special Assessments, all such Assessments and charges to be established and collected as hereinafter provided. Annual Assessments and Special Assessments, together with

interest, costs, and reasonable attorney's fees, shall be secured by a lien (the "Assessment Lien") on the Ranch Estate to which they relate in favor of the Association, which shall be a continuing servitude and lien upon the Ranch Estate against which each such Assessment or charge is made. The Assessment Lien, including, but not limited to, its enforcement and priorities, shall be consistent with, and shall contain, all of the provisions set forth in C.R.S. § 38-33.3-316. The Assessment Lien shall be the personal obligation of the Owner of a Ranch Estate. Where there is more than one Owner, each shall be jointly and severally liable for all assessments. Declarant and the Association shall be entitled to purchase a Ranch Estate at any Assessment Lien foreclosure sale.

5.2 Annual Assessments.

(a) Prior to the first levy of an Assessment, and thereafter on or before October 1 of each calendar year, the Board shall adopt a proposed annual budget for the Association for the following calendar year that sets forth:

- (i) the Board's estimates of Common Expenses for the next calendar year;
- (ii) the amount of funds for such annual Expenses that the Board proposes to raise through Common Assessments; and
- (iii) the amount of funds for such Common Expenses that the Board proposes to raise through Special Assessments.

(b) Within thirty (30) days after adopting a proposed Budget, the Board shall deliver a summary of the proposed Budget to the Owners and set a date for a meeting of the Owners to consider ratification of the proposed budget. The date of such meeting shall not be less than fourteen (14) days nor more than sixty (60) days after the delivery of the summary of the proposed budget to the Owners. Unless at that meeting a majority of the votes allocated to all Memberships, whether or not a quorum is present, rejects the proposed budget, the proposed budget shall be deemed ratified. If the proposed budget is rejected, the annual budget last ratified by the Owners shall be deemed renewed for the next calendar year and shall remain in full force and effect until such time as the Owners ratify a subsequent budget proposed by the Board.

(c) If the Board deems it necessary or advisable to amend an annual budget that has been ratified by the Owners under this Section 5.2, the Board may adopt a proposed amendment to the annual budget, deliver a summary of the proposed amendment to all Owners and set a date for a meeting of the Owners to consider ratification of the proposed amendment. The date of such meeting shall not be less than fourteen (14) days nor more than sixty (60) days after the delivery of the summary of the proposed amendment. Unless at that meeting a majority of the votes allocated to all Memberships, whether or not a quorum is present, rejects the proposed amendment, the proposed amendment shall be deemed ratified.

5.3 Special Assessments. In addition to the annual assessment authorized above, the Association may levy, in any assessment period, as defined in Section 5.5 hereafter, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement, or for other extraordinary expenses, provided that any Special Assessment in excess of Five Thousand Dollars (\$5,000.00) shall (except in the event of an emergency where the limit shall be \$10,000) require a majority approval of those voting in person or by proxy at a meeting duly called for such purpose at which a quorum is present pursuant to the by laws of the Association. If any Common Expense is caused by the misconduct of any Ranch Estate Owner, the Association, at its discretion, may assess that expense exclusively against such Owner's Ranch Estate.

5.4 Rate of Assessment. Annual Assessments and Special Assessments shall be fixed based on the amount of the Assessment divided by the number of Ranch Estates that are obligated to pay such Assessments. Assessments may be collected on a yearly basis or more often as the Board so determines. Assessments will be equitably charged to those Ranch Estates participating in or receiving Association benefits.

5.5 Establishment of Annual Assessment Period. The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the calendar year, except that the first Assessment Period shall commence upon the recording of this Declaration and terminate on December 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period. The Board shall fix the amount of the Annual Assessment against each Ranch Estate at least thirty days in advance of the end of each Assessment Period. Written notice of the Annual Assessment shall be sent to each Member. Failure of the Association timely to fix the Annual Assessment or to send a bill to any Member shall not relieve the Member of liability for payment of any Assessment or charge. The due dates for payment of any Assessments shall be established by the Board.

5.6 Effect of Nonpayment. Any Assessment, Assessment charge, or installment thereof, not paid when due, shall be deemed delinquent. Fees, charges, late charges, attorneys fees, fines, and interest shall be applicable to such delinquent Assessment pursuant to the provisions of C. R. S. § 38-33.3-316. The Board may, but shall not be required to, record a Notice of Delinquent Assessment against any Ranch Estate as to which an Assessment is delinquent. Such notice shall be executed by an officer of the Board, shall set forth the amount of the unpaid assessment, the name of the delinquent Owner(s), and a description of the Ranch Estate. The Association may bring an action at law against the Owner(s) obligated to pay the delinquent Assessment and/or may foreclose the Assessment Lien in conformance with the provisions of C. R. S. § 38-33.3-316(11)(a).

5.7 Priority of Lien. The priority of an Assessment Lien shall be consistent with the provisions of C.R.S. § 38-33.3-316.

5.8 Statement from Association. Upon written request and payment of such reasonable fee as may be set by the Association, the Association shall issue a written statement to any grantee or Mortgagee verifying the status of all Assessments or charges affecting the Ranch Estate. Any statement as to the existence or amount of any delinquencies shall, absent manifest error, conclusively bind the Association.

5.9 Assessments for Tort Liability. In the event of any tort liability against the Association which is not covered completely by insurance, each Owner shall contribute for the

payment of such liability as a Special Assessment. The Association may, however, require a larger contribution from fewer than all Owners under any legal or equitable principles regarding liability for negligent or willful acts or omissions by any respective owner.

5.10 Declarant Responsibility. Until a common expense assessment has been duly adopted by the Association, Declarant shall pay all association common expenses related to Elkhorn Ranch.

6. INSURANCE.

6.1 Types of Insurance. The Association may obtain and keep in full force and effect the following insurance coverage, if appropriate:

(a) Property and fire insurance with extended coverage and standard all-risk endorsements, including vandalism and malicious mischief, on Property conveyed or leased by Declarant or any other Association property. The total amount of insurance, after application of deductibles, shall be 100% of the replacement value of the insured property exclusive of land, foundations and other items normally excluded from property policies.

(b) Public liability and property damage insurance, including medical payments insurance, in an amount to be determined by the Board, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connecting with the ownership, operation, maintenance or other use of Association property. This policy shall also cover operation of automobiles or other vehicles or equipment on behalf of the Association.

(c) Workmen's compensation and employer's liability insurance in the amounts and in the forms required by law.

(d) Fidelity coverage against the dishonesty of employees, destruction or disappearance of money or securities, and forgery. This policy shall also cover persons who serve the Association without compensation.

(e) Coverage of Members of the Board and officers of the Association against libel, slander, false arrest, invasion of privacy and errors and omissions and other forms of liability generally covered in officers and directors liability policies.

(f) Insurance against loss or damage to persons or property for ditch or dam failure.

(g) Coverage against such other risk of a similar or dissimilar nature as the Board deems appropriate.

(h) Insurance policies carried pursuant to this Section 6 must provide that: (i) each Ranch Estate Owner is an insured person under the policy with respect to liability arising out of such Ranch Estate Owner's interest in Association Property or membership in the Association; (ii) the insurer waives its rights to subrogation under the policy against any Ranch Estate Owner or member of the Ranch Estate

Owner's household; (iii) no act or omission by any Ranch Estate Owner, unless acting within the scope of such Ranch Estate Owner's authority on behalf of the Association, will void the policy or be a condition to recover under the policy; and (iv) if, at the time of a loss under the policy, there is other insurance in the name of the Ranch Estate Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

6.2 Named Insured and Interests. The Association shall be the named insured under each of said policies. Where appropriate, the named insured may be any ditch or reservoir company owned or controlled by the Association or other officers and directors of the Association or other officers and directors of any ditch or reservoir company owned or controlled by the Association. Policies of insurance shall also name Elkhorn as an insured so long as it shall retain any interest in Elkhorn Ranch. Where appropriate, separate Owners may also be named insureds. The certificate or memoranda of insurance, duplicate originals of all policies and renewals, and proof of payment of premiums shall be issued to the Association, and upon request, to Elkhorn and to any Owner who is a named insured or to any Eligible Mortgage Holder.

6.3 Insurance Proceeds. The Association shall receive the proceeds of any insurance purchased by the Association. In the event of damage or destruction due to fire or other disaster, if the insurance proceeds are sufficient to reconstruct the improvements, the Association shall promptly cause such reconstruction to occur. If the insurance proceeds are not sufficient for such purpose, the Association may levy a Special Assessment against the Owners for such deficiency.

7. GENERAL RESTRICTIONS.

7.1 Property Uses. The general uses and restrictions applicable to the Ranch Estates within Elkhorn Ranch are as follows:

(a) Elkhorn, prior to the sale of Ranch Estates by it to third parties, reserves the right to continue the agricultural uses and businesses on all Ranch Estates including, but not necessarily limited to, the cultivation of the soil to produce and sell agricultural products therefrom and the buying, selling, rearing, feeding, and management of livestock (hereafter referred to as "Agricultural Use"). Elkhorn may continue to make Agricultural Use of the Ranch Estates it owns until it has sold all of the Ranch Estates it has developed.

(b) Upon an Elkhorn sale of a Ranch Estate or Ranch Estates to third parties, the historical Agricultural Use by the Association of that Ranch Estate or Ranch Estates shall end on or before the date the deed for such sale is recorded in the real property records of La Plata County, unless otherwise agreed. Thereafter, each Ranch Estate shall be used only for residential purposes and such accessory or incidental uses that are consistent with this Declaration. No commercial activity may be conducted on any Ranch Estate. On each Ranch Estate there shall be constructed only one primary single family residence, and, if an Owner so desires, one guest house, one caretaker (ranch hand) house, one barn, and one pasture turnout area, and necessary stable and corral areas. The guest house may be used by Ranch Estate caretakers working for Owner. Any improvements on a Ranch Estate shall be consistent with the terms, provisions and conditions contained on the Plat, this Declaration, the Design Review Guidelines, rules and regulations, and the land

use requirements of the County.

(c) No Owner shall be permitted to lease his Ranch Estate and residence for any period of less than one year. Any lease agreement shall be required to provide that the terms of the lease shall be consistent with and subject in all respects to the provisions of the Plat, this Declaration, and the Design Review Guidelines. Any failure of the lessee to comply with the terms of such document shall be a default under the lease. All Owners leasing or renting their Ranch Estate and improvements thereon shall promptly notify the Association in writing of the names of all tenants and members of the tenant's family occupying such Ranch Estate and of the address and telephone number where such Owner can be reached. All such leases shall be in writing.

(d) Multiple Owners. No time share or time share-like ownerships of Ranch Estates are permitted.

7.2 Development Activity. All development within the Elkhorn Ranch shall be undertaken consistent with this Declaration, the Plat, the Design Review Guidelines, and all applicable rules and regulations.

7.3 Selection of Developable Area. Upon completion of the Design Review Guidelines review process for development and construction upon a Ranch Estate, the issuance of a building permit shall thereafter constitute the irrevocable exclusive selection by the Owner of the Ranch Estate that the approved Developable Area is final.

7.4 Relocation of Developable Area. Elkhorn reserves the right as to any Ranch Estate owned by Elkhorn to relocate Developable Areas, or any access thereto, or to delete existing Developable Areas or designate new Developable Areas, including access thereto. Owners of Ranch Estates, the Association and the DRC hereby consent to said relocation, deletion or designation of new Developable Areas by Elkhorn or any access thereto. Owners of Ranch Estates shall also have the right to obtain any requisite approvals to relocate, delete or designate new Developable Areas; provided, however, that Elkhorn's approval is obtained during the Declarant Control Period, and approval is obtained consistent with the requirements of this Declaration and the Design Review Guidelines.

7.5 Pets. A reasonable number of domestic pets shall be allowed on Ranch Estates. All pets shall be confined to the Developable Areas or attached to a leash or other suitable control device. Owners must insure that their pets shall not harass wildlife. Pets which do harass wildlife may be banned from the Elkhorn Ranch by the Association. Pets shall not be allowed to create excessive noise or odor and shall be restrained from interfering with other Owners' quiet and peaceable enjoyment of their Ranch Estate. The Association may also adopt additional rules or conditions regarding pets.

7.6 Horses. Ranch Estate Owners shall be allowed to maintain and stable one horse per five acres on their Ranch Estates. One horse per five acres.

7.7 Other Animals. In addition to horses, other animals may be permitted on a Ranch Estate provided Elkhorn's approval is obtained during the Declarant Control Period and approval is obtained consistent with the Design Review Guidelines. Declarant and/or the Association may

rescind their consent if the presence of these animals becomes a nuisance. Upon written notice given by the Association and/or the Declarant to an Owner that such consent has been rescinded, the Owner shall, within five days of his receipt of such notice, remove the animal(s) from Elkhorn Ranch that are no longer permitted.

7.8 Further Subdivision. Except as allowed in Section 7.9 and Section 7.10, no Ranch Estate shown on the Plat shall ever in the future be subdivided by an Owner into smaller parcels or conveyed or encumbered in any less than the full dimensions shown on the Plat; provided, however, conveyances, easements or dedications for Roads, Utilities, easements, and water structures may be made with regard to less than a Ranch Estate. Notwithstanding the preceding, there is reserved to Elkhorn the right to further subdivide, convey or encumber in less than full dimensions any Ranch Estate in Elkhorn Ranch owned by Elkhorn; provided, however, any such resubdivision or conveyance of a Ranch Estate site can never result in a Ranch Estate of less than thirty five (35) acres.

7.9 Boundary Line Adjustments by Owners. Notwithstanding the provisions of Section 7.8 above, a boundary line adjustment by Owners between, or among Owner owned Ranch Estates, shall be permitted provided that:

(a) the relocation of boundaries between Ranch Estates must be undertaken consistent with the provisions of C.R.S. § 38-33.3-212 and county regulations;

(b) the resulting Ranch Estate or Ranch Estates must contain not less than 35 acres;

(c) the relocations of boundaries must be limited to adjustments between, or among, the Ranch Estates as platted. No relocation of boundaries shall occur with adjoining lands that are not a part of the Elkhorn Ranch; and

(d) notwithstanding the provisions of Section 7.9(c) above, the owners of Parcel G shall have the one time right to accomplish a boundary adjustment to increase the acreage of Parcel G to include property between Missionary Ridge Road and the southerly boundary of Parcel G. Upon such boundary adjustment, the owners of Parcel G shall file a supplemental plat for record in the La Plata County, Colorado, Clerk and Recorder's Office, and such property added to Parcel G shall thereby be annexed to the Elkhorn Ranch and be subject to the then existing Declaration of Protective Covenants of Elkhorn Ranch.

7.10 Boundary Line Adjustments by Elkhorn. Notwithstanding the provisions of Sections 7.8 and 7.9 above, the following boundary line adjustments by Elkhorn shall be permitted:

(a) As between, or among, the boundary of any Ranch Estates owned by Elkhorn;

(b) As between, or among, the boundary of any Ranch Estates owned by Elkhorn and property adjacent to Elkhorn Ranch lands abutting such Ranch Estates;

(c) The relocation of such boundaries must be undertaken consistent with the provisions of C.R.S. § 38-33.3-212 and County regulations; and

- (d) The resulting Ranch Estate or Ranch Estates must contain not less than 35 acres;

7.11 Utilities. Except for required above-ground improvements at utility origination points, all domestic water, sewer, electrical, telephone, gas and other utility pipes or lines shall be buried underground and shall not be carried on overhead poles or above the surface of the ground. Any areas of natural vegetation or terrain disturbed by the burying of utility lines shall be revegetated to Design Review Guidelines standards by and at the expense of the Owner causing the installation of the Utilities no later than the next growing season following such installation.

7.12 Enclosure of Unsightly Facilities and Equipment. All unsightly facilities, equipment and other items, including, but not limited to, those specified below shall be enclosed within a covered structure. Any motor home, trailer, boat, truck, tractor, garden equipment and any similar items shall be kept at all times, except when in actual use, in an enclosed garage. Any refuse or trash containers, utility meters or other facilities, service areas, or storage piles shall be enclosed within a structure or appropriately screened from view by planting or fencing approved by the DRC and adequate to conceal the same. No lumber, metals, boat materials, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any Ranch Estate, except building materials during the course of construction and only for such reasonable periods of time as is necessary prior to their collection or disposal.

7.13 Satellite Dishes. The installation of satellite, relay, up-link or other communication dishes or facilities must be installed within Ranch Estates consistent with the requirements of this Declaration and the Design Review Guidelines. Plans for any dish or other facilities shall include details as to location, size, color, installation, maintenance and other specifications as the Design Review Guidelines may reasonably require. Satellite dishes not exceeding 18 inches in diameter shall be automatically approved.

7.14 Hunting and Firearms. Hunting and the discharge or shooting of firearms anywhere within Elkhorn Ranch is prohibited, except the ranch manager or other employees or agents of the Association shall be permitted to use firearms on any Ranch Estate in connection with wildlife management or predator control; provided, however, that any Owner shall be given reasonable notice of entry except in the case of emergency. Further, the Association may promulgate and enforce rules and regulations regarding Owners' (and their families, guests and invitees) use of the adjoining national forest and/or BLM lands for hunting and the discharge or shooting of firearms.

7.15 Drainage and Erosion Control. Except as permitted by Declarant, the Association, and/or by DRC no Owner shall do anything which shall:

- (a) Impair or adversely affect the natural drainage on any Ranch Estate;
- (b) Divert water onto another Ranch Estate; or
- (c) Deprive any Ranch Estate of its natural drainage course.

No Ranch Estate improvements may cause new erosion or exacerbate existing erosion or draining patterns where such changes are, in the opinion of the Association, detrimental

to Elkhorn Ranch lands or Association Water Rights or other Water Rights vested in the Owners of lands adjacent to Elkhorn. Each Owner shall install culverts where driveways cross Road ditches, irrigation channels and other water ways as required by the DRC. The minimum size of any culvert and the construction methods utilized in installing any culvert shall also be approved by the DRC. The Association retains the right over and across all Ranch Estates, other than Developable Area, to engage in any necessary drainage, soil or erosion control activities and to further develop Water Rights.

7.16 Pest Control. With the exception of normal pest control immediately around an Owner's residence and guest house, no Owners may engage in any other pest control activities without having first obtained the written approval of the Association. The Association, consistent with this Declaration, may grant or withhold any such approvals. In the granting of any approval, the Association may impose conditions on any pest control, including the techniques, devices or chemicals that may be employed. All pest control approved, but not undertaken by the Association, shall be implemented at the expense of such Owner.

7.17 Noxious or Offensive Activity. No noxious or offensive activity or sound shall be conducted on any portion of Elkhorn Ranch at any time, nor shall anything be done or permitted which may become a nuisance to, or unreasonably disturb, Owners of other Ranch Estates, or be injurious to the reputation of Elkhorn Ranch. Owners shall undertake weed control consistent with the requirements of the County, this Declaration, the Design Review Guidelines and rules and regulations.

7.18 No Mining, Drilling or Quarrying.

(a) Mining, quarrying, tunneling, excavating or drilling for any substances within the earth, including oil, gas, minerals, gravel, sand, rock and earth, shall not be permitted within the limits of the Elkhorn Ranch except as allowed by this Section.

(b) Owners of minerals which have been severed from the surface estate shall be permitted to conduct operations necessary to explore for and/or extract any minerals or oil and gas reserves given them in any documents or conveyances provided such activity is consistent with Colorado state, County and other local laws and regulations and, to the extent permitted by such laws and regulations, does not intrude on the surface of any Ranch Estate or impair subjacent, lateral or surface support of any improvements within the Elkhorn Ranch.

(c) Drilling for water by Elkhorn, or the Association, or their successors and/or assigns, for domestic purposes shall be permitted within the limits of the Elkhorn Ranch.

(d) Drilling of individual water wells shall be permitted by Owners of Ranch Estates in accordance with the provisions of Section 9.2 below.

(e) Declarant and/or the Association may quarry and excavate rock and gravel on Elkhorn Ranch lands provided the rock and gravel is used for the benefit of Elkhorn Ranch lands only.

7.19 Completion of Construction. Any construction activity on any Ranch Estate shall be commenced within twelve (12) months of written approval of plans and specifications by the Association. Any such construction activity shall be completed and fully cleaned up within eighteen (18) months from its commencement or a variance shall be obtained from the DRC to allow for a longer period of construction upon proof of due diligence.

7.20 Private Driveways and Utilities.

All Private Drives shall be constructed and improved at the expense of the Owner of a Ranch Estate. All maintenance, repair, and improvement of Private Drives shall be the responsibility of the Owner. All Utilities which are constructed to serve the Developable Areas within a Ranch Estate must be underground and must be placed within the easement area of the Private Drive. All such improvements must be constructed consistent with the Plat, this Declaration, the Design Review Guidelines, the standards of the County and the applicable utility company.

7.21 Trees and Landscaping. Owners may not cut or alter trees, bushes or natural vegetation except with the approval of the DRC and then only within the Developable Area. Cutting or alteration of trees, bushes or natural vegetation by the Association or Elkhorn may occur on Elkhorn lands, outside Developable Area, as is necessary for the general enhancement of Elkhorn Ranch lands, Association lands and operations, and for easement uses or activities, including, but not necessarily limited to, those uses and activities created, reserved or granted in Sections 8 and Section 9 of this Declaration, or as described in the Design Review Guidelines, or as shown on the Plat.

7.22 Damage by Owners. Owners are responsible for any damage caused to Roads, Utilities, Water Amenities, natural drainage courses, water conveyancing channels, bridle paths, ditches, fences, Association common property, and improvements constructed or being constructed by Elkhorn in its development of Elkhorn Ranch. By way of example, Owners are responsible for any damage caused by utility cuts in Roads and damage, such as washouts, caused by the Owner's failure to properly install culverts. Owner shall correct and repair any such damage in a timely manner.

7.23 Fences. Permitted fences on, about, or within the Elkhorn Ranch can only be constructed in a manner consistent with the Design Review Guidelines. Elkhorn and the Association, at their discretion, may maintain or construct permanent or temporary fences within Elkhorn Ranch. Fences shall not interfere with the ownership, development, use, or operation of Elkhorn Ranch.

7.24 Sewage Disposal Systems. Each of the homes to be constructed on Ranch Estates will be on individual sewage disposal systems. Owners will be responsible for the design of their individual systems with due regard for specific soil conditions, percolation rates and the like. All systems shall meet the minimum requirements of the County and/or the San Juan Basin Health Department (or its successor). In addition, all sewage disposal systems shall:

- (a) be located entirely within the Developable Area of a Ranch Estate;
- (b) be located entirely underground;

(c) blend in with the natural landscape and not be located or constructed above grade except where approved by the DRC; or required by San Juan Basin Health Department.

(d) not be located, designed or operated so as to encroach upon or otherwise affect any domestic water distribution systems, wells, ditches or other Water Rights, natural drainage courses, or any sewer disposal systems on other Ranch Estates; and

(e) be developed consistent with the Design Review Guidelines.

7.25 Motorized Vehicle Limitations. Snowmobiles, motorcycles and "all terrain" type vehicles are prohibited from being used on Elkhorn Ranch, provided, however, that such vehicles may be used for, and only for, occasional personal transportation over Elkhorn Roads to and from County Road 250.

7.26 Signs. The Association and Declarant shall have the right to post signs on any Ranch Estate prohibiting trespassing or hunting, to protect boundary lines, or for any other purposes consistent with Association operations. Elkhorn shall also be permitted to maintain signs for the purpose of sales activity (Section 14.1). Owners may not post, maintain, or permit any signs on any Ranch Estates or other property of Elkhorn Ranch without the approval of DRC. Any such signage approved shall be consistent with the requirements of this Declaration and the Design Review Guidelines.

7.27 Water Development. All development of water, Water Rights, and Water Amenities can only be developed and improved consistent with the Plat, this Declaration, the Design Review Guidelines, rules and regulations, and any applicable governmental rules and regulations. Elkhorn, in cooperation with the Association, shall establish a Water Right Allocation Plan. The development of Water Amenities upon a Ranch Estate by an Owner shall be developed at the Owner's cost and liability, and such development shall be undertaken consistent with the Water Right Allocation Plan, this Declaration and the Design Review Guidelines.

8. EASEMENTS AND RIGHTS RESERVED.

8.1 Easements Described on Plat. The Elkhorn Ranch subdivision is subject to the easements shown, created, reserved or granted on the Plat. When necessary, Elkhorn shall have the right, without obtaining the consent of any Owner, Mortgagee or the Association, to amend the Plat to reflect the as-built relocation or any relocations of existing easements shown on the Plat.

8.2 Waterways and Water Amenity Easements. Elkhorn hereby reserves to itself (and to the extent necessary, such rights are hereby extended to the Association) such general water easements as are described in the Plat, this Declaration, the Design Review Guidelines, or as required by law, for the purpose of permitting Elkhorn to generally develop Water, Water Rights, and Water Amenities throughout the Elkhorn Ranch or to provide water to properties adjoining the Elkhorn where, and if, required by agreement or as a matter of law.

8.3 Operations Easement. There is reserved to Elkhorn (and to the extent necessary, such rights are hereby extended to the Association) the right from time to time to enter upon Ranch Estates or other portions of the Elkhorn Ranch to perform or carry out any Elkhorn Ranch

operations, whether undertaken by Elkhorn or the Association, including the maintenance, repair, operation, and enhancement of items such as wildlife habitat, ditches, Water Rights, Water Amenities, fences, water systems, weed control and agricultural operations. Elkhorn and the Association may undertake any other actions reasonably required to fully operate the Elkhorn Ranch.

8.4 Emergency Access Easement. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons, now or hereafter servicing Elkhorn Ranch and its residents and to Elkhorn or the Association, or any Association employees, to enter upon all Roads to undertake the lawful performance of their duties. Private security contracts or other security arrangements made by Owners must first be approved by the Association.

8.5 Easement Reservations. Elkhorn hereby reserves and retains (and to the extent necessary, such rights are hereby extended to the Association) permanent and perpetual easements under and across all easements described in this Declaration, as shown on the Plat, or existing as a matter of law, for the purposes of operating, installing, constructing, maintaining, and repairing all Elkhorn Ranch facilities and improvements and for such other purposes as may be described in this Declaration. Elkhorn hereby agrees that Roads, Utilities, and common areas are for the use, benefit and enjoyment of Elkhorn, Owners, their family members, guests and invitees. Elkhorn and/or the Association shall have the right to install cattle guards, gates (including security and entry gates), speed bumps or dips, guard rails, water structures, and the like.

8.6 Ownership of Easements. All easements and rights reserved by Elkhorn in Sections 8.1 through 8.5 hereof, or otherwise reserved or granted to Elkhorn in this Declaration, the Plat, or which exists as a matter of law, shall remain vested in Elkhorn until such time as Elkhorn has executed and delivered an instrument in writing transferring these to the Association. Upon such assignment and transfer, liability, ownership, and responsibility regarding such easements and rights shall be assumed by and belong to the Association. Where the instrument recites it as a complete transfer, Elkhorn shall be relieved from any and all continuing responsibilities and liabilities thereof. With respect to Roads, Utilities and utility easements, and easements conveying domestic water to Ranch Estates, these easements may not be vacated, extinguished, impaired, or limited, except upon the written consent of the Owner, unless Elkhorn or the Association have made comparable alternative provisions to provide such easement and easement improvements to the affected Ranch Estate. No amendment to this Declaration may preclude a Ranch Estate from having an access Road, Utilities and utility easements, and easements necessary to convey domestic water to the affected Ranch Estate.

8.7 Declarant Rights. Declarant reserves the following development rights and special rights regarding Elkhorn Ranch:

- (a) The right to create a maximum of 17 Ranch Estates within Elkhorn Ranch;
- (b) The annexation of all or portions of the Annexable Property described on Exhibit "A". Each Owner of a Ranch Estate hereby grants to Declarant the right to annex all or portions of the Annexable Property to Elkhorn Ranch and to modify such Owner's Allocated Interests accordingly. Declarant makes no assurances that all or any portion of the Annexable Property will be annexed to Elkhorn Ranch and Declarant reserves the right to annex all or any portion of the Annexable Property to Elkhorn Ranch in any order it

deems fit in its sole and absolute discretion.

The annexation of additional property to Elkhorn Ranch shall be accomplished by the Declarant recording with the Clerk and Recorder of Archuleta County a Supplemental Declaration containing a legal description of the land area to be added to Elkhorn Ranch and amending this Declaration accordingly, together with a Supplemental Plat thereof. The Supplemental Declaration shall assign an identifying number to each new Ranch Estate created thereby, and shall reallocate the Allocated Interests of all Ranch Estate Owners in Elkhorn Ranch in accordance with the definition of Allocated Interests contained in this Declaration. In no event shall any annexation increase the number of Ranch Estates in Elkhorn Ranch beyond the seventeen (17) Ranch Estate maximum stated in this Declaration. The Supplemental Declaration shall also describe any Common Areas thereby created.

The annexation of all or portions of the Annexable Property may be accomplished by successive Supplemental Declarations, in no particular or pre-established order, and may provide that property annexed thereby ("Annexed Property") is phased so that it is made subject to this Declaration at different times. Upon recording of a Supplemental Declaration, the Annexed Property described therein shall be subject to all of the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions set forth in this Declaration, except to the extent specifically stated in the Supplemental Declaration or as modified thereby. Any such Supplemental Declaration may impose upon the Annexed Property described therein, additional covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions than those set forth in this Declaration, taking into account the unique and particular aspects of the Annexed Property covered thereby and of the proposed development thereof. Furthermore, the Declarant shall have the right to reserve in such Supplemental Declaration any development rights that Declarant considers necessary or appropriate, provided that such provision shall not extend the termination date for the exercise of Declarant's reserved rights as set forth in this Section;

(c) Declarant reserves easements and the right to use easements over and across Elkhorn Ranch as may reasonably necessary for (1) the purpose of discharging Declarant's obligations or rights, whether arising under this article or otherwise reserved or stated elsewhere in this Declaration; and (2) the development of access and utilities for the Annexable Property and other adjacent or nearby properties;

- (d) DRC rights reserved in Section 4.1;
- (e) construction approval rights reserved in Section 4.2;
- (f) agricultural operation rights reserved in Section 7.1;
- (g) the Relocation of Developable Areas reserved by Elkhorn in Section 7.4;
- (h) the subdivision, conveyance and encumbrance rights reserved in Section 7.8;
- (i) those boundary line adjustment rights reserved in Section 7.10;

- (j) the development rights reserved in Section 8.1;
- (k) the waterway, ditch, reservoir, and water amenity easements reserved in Section 8.2;
- (l) the operations easement, and operations and maintenance rights as set forth in Section 8.3;
- (m) the emergency access easement rights reserved in Section 8.4;
- (n) the easement rights and easement enlargement rights reserved in Section 8.5;
- (o) the easement and rights reserved in Section 8.6;
- (p) the Water Rights as set forth in Section 9.1;
- (q) the water system and water systems development as set forth in Section 9.3;
- (r) the rights and reservations reserved in Sections 9.5 and 9.6;
- (s) the rights, reservations, and attorney-in-fact designation granted in Section 9.6;
- (t) the sales activity rights reserved in Section 14.1;
- (u) Declarant reserves easements and the right to use easements over and across Elkhorn Ranch as may be reasonably necessary for: (1) the purpose of discharging Declarant's obligations or rights, whether arising under this article or otherwise reserved or stated elsewhere in this Declaration; and

Declarant offers no assurances regarding the order in which the Elkhorn Ranch may be subject to the exercise of each development right herein enumerated. The time limits within which each of these rights must be exercised are the later in time of: (i) the time limit set forth in the application section of this Declaration; or (ii) January 1, 2030.

8.8 Owner Prohibitions Regarding Easements. Owners shall not have any rights whatsoever to grant to any person, entity, governmental organization, or other third parties the right or rights to use any Roads, Utility easements, Water Rights, bridle paths, equestrian staging areas, or other Association common elements. Further, Owners may not create or establish any easements over their Ranch Estate to any person, entity, governmental organization or other third parties, that would allow them to gain access to adjoining properties from and off the Elkhorn Ranch. Any attempt to grant any right or rights described in this section shall be null and void. Declarant, during Declarant's Control Period, and the Association may grant, at their discretion, any such rights to third parties.

9. WATER RIGHTS.

9.1 Water Rights. The principal Water Rights associated with the Elkhorn Ranch are those Water Rights which have historically existed on, and been for the benefit of, the Elkhorn Ranch property and those Water Rights granted to the Elkhorn Ranch property by Water Court Decree, (except water from the Elkhorn Ditch), those Water Rights granted to the Elkhorn Ranch land by agreement with adjoining landowners, and those Water Rights granted to the Elkhorn Ranch property described in the Water Right Allocation Plan. The Association shall thereafter own and be responsible for the use, protection, maintenance, repair and operation of the water rights (except .25 c.f.s. of water from the Elkhorn Ditch which shall be owned by the owners of Parcel G) and the common water amenities. In order to protect all Water Rights, Water Amenities, existing ditches, natural drainage ways, and water ways, except for Ranch Estates' domestic water wells, are expressly excluded from ownership by Owners of Ranch Estates unless such Ranch Estate is owned by Elkhorn. Elkhorn shall convey the Water Rights and common Water Amenities to the Association on the date the Seller has conveyed to a Buyer the first Ranch Estate it has available for sale. The Association shall thereafter own and be responsible for the use, protection, maintenance, repair, and operation of the Water Rights and the common Water Amenities.

9.2 Individual Wells. Ranch Estate Owners shall be permitted to drill and operate as may be permitted by law, one exempt domestic well not to exceed 15 gallons per minute for ordinary household purposes, fire protection, watering of permitted horses, other livestock and animals and irrigation of not greater than one acre of ground. Owners shall be responsible for obtaining all state and local permits and approvals for such well and shall also be responsible for the payment of all costs associated with the drilling, development, operation, repair, maintenance and replacement of such well. Elkhorn makes no representation or warranty that water for such wells is available on any particular Ranch Estate or, if available, the depth where or quality or quantity of water that may be available. In order to prevent injury to any Water Rights, no drilling or operation of any exempt domestic wells shall occur until the location and specifications are approved by Elkhorn and the Association.

9.3 Water System and Water System Facilities. Elkhorn and the Association may have Water Systems and Water System Facilities together with separate associations formed to administer the same to:

- (a) Provide for the irrigation of Elkhorn agricultural lands;
- (b) Provide water conveyancing channels, ditches, and Water Amenities throughout Elkhorn Ranch, including individual Ranch Estates;
- (c) Maintain historic water flows within historic water drainage areas;
- (d) Develop domestic water (for those Ranch Estates that may be unable to obtain domestic water by an exempt domestic well); and
- (e) Develop a central domestic water system for all or any part of the Elkhorn Ranch, including development by: (i) private water companies established by Declarant or the Association; or (ii) a water district such as the Animas Valley Metropolitan Water District.

The development of any water systems or water system facilities may include ditches, water lines, sprinklers, headgates, laterals, pipes, wells, pump stations, pump station sites, culverts, storage tanks, and other facilities reasonably needed for such water related improvements.

The cost and responsibility of the development, operation, maintenance, repair and replacement of such water systems and water system facilities shall be the responsibility of the Association; provided, however, that the Association may require Ranch Estate Owners benefited by such systems or facilities to be responsible for the operation, maintenance, repair, replacement, and installation of such systems and facilities as they exist for the benefit of the Owners of Ranch Estates.

9.4 Off-Site Domestic Water. In addition to the Water Rights granted and reserved in this Section 9 to the Association, if a Ranch Estate is unable to obtain domestic water by an exempt domestic well on their Ranch Estate, Elkhorn and/or the Association may, at their discretion, provide domestic water to the Owner of such Ranch Estate through a plan of augmentation utilizing Water Rights. There is hereby reserved to Elkhorn and the Association perpetual easements over and across all Roads for the purpose of providing domestic water within the Elkhorn Ranch development. Elkhorn and/or the Association may drill wells on Ranch Estates outside of its Developable Areas for the purpose of providing this domestic water to other Ranch Estates or for use by the Association, provided the Owner of the Ranch Estate who is not benefited by such well shall have no responsibility with regard to the drilling costs, maintenance, repair, and replacement of the domestic well, its Water System, and Water System Facilities, needed to provide domestic water to another Ranch Estate. Elkhorn's and/or the Association's determination of whether or not water from its Water Rights shall be provided to a Ranch Estate shall be conclusive.

9.5 Ditch and Pond Easements. There are hereby created and reserved unto Elkhorn and the Association perpetual easements over and across Elkhorn Ranch to develop Water Rights for the benefit of the development of the Elkhorn Ranch by Elkhorn, and if required by law, adjoining property owners, for all ditches, water systems, water system facilities, ponds, water conveyancing channels, other Water Amenities, historical drainages, central domestic water systems, and ditch irrigation water, all as shown on the Water Right Allocation Plan attached to these comments. Easements for ditches, easements for central water systems, and easements for other water conveyancing channels shall not, if practicable, exceed fifteen (15) feet on either side of the centerline of such easement area. The easements may be used for the operation, maintenance, repair and replacement of any water improvements placed within it and shall include reasonable ingress and egress related thereto.

These easements include the right on the part of Elkhorn and the Association to construct, operate, maintain, repair, enlarge, relocate or replace ditches, water conveyancing channels, Water Amenities and other water improvements, water systems, water system facilities, and central water systems. Ranch Estate Owners shall be responsible for any damage to any Water Rights, water systems, water system facilities, ditches, water conveyancing channels, ponds, Water Amenities, or natural drainage channels caused by any development activity carried on by the Owner. The Owner shall, at his expense, take all measures necessary to avoid any such interference including, but not limited to, the installation of necessary culverts and the construction of improvements required by DRC. Ranch Estate Owners may be responsible, upon Association demand, for costs related to the Association providing water, Water Rights, Water Amenities and domestic water to or through a Ranch Estate.

9.6 No Impairment of Water Rights by Owners. Notwithstanding that Owners are entitled to obtain exempt domestic wells and may choose to adjudicate individual Water Rights appurtenant thereto, in no event shall Owners be entitled to have any standing, by virtue of ownership of said exempt domestic wells and Water Rights appurtenant thereto, to object to any application for a well permit or any Water Rights applications, including but not limited to, a change of water right, approval of any augmentation plans or new water right that may be filed by Elkhorn or the Association. Each Owner hereby irrevocably constitutes and appoints Elkhorn and/or the Association its attorney-in-fact to file, join in or object, as they deem appropriate in their sole discretion, to any Water Rights application affecting any Elkhorn Ranch lands or its Water Rights.

10. ELKHORN RANCH OPERATIONS.

10.1 Water Right Allocation Plan. Elkhorn, in cooperation with the Association, shall develop a Water Right Allocation Plan, which may be included as part of the Design Review Guidelines, providing for the ongoing implementation, improvement, management and monitoring of all Water Rights related to Elkhorn Ranch. Thereafter the Association, acting through the ranch manager and Association employees or agents, shall be responsible for the implementation of the Water Right Allocation Plan. Should the Association desire to thereafter change any provisions of the Water Right Allocation Plan, the approval of Elkhorn, during its Declarant Control Period, shall be required. The Water Right Allocation Plan may be reviewed annually by the Association and changes or additions thereto may be made so long as such changes or additions are consistent with the provisions of this Declaration.

Elkhorn and/or the Association may establish a private water company, or may utilize Animas Valley Metropolitan District water, to provide domestic water to all or any portion of the Ranch Estates. In that event they, or either of them, may require the Ranch Estate Owner so benefited to be responsible for his share of the installation, operation, maintenance, repair, and replacement of such water system and water system facilities necessary to accommodate the requirements of the entity providing such central domestic water.

10.2 Ranch Operations. Except for Private Drives which are the responsibility of Owners, the Association shall be responsible for the operation, maintenance and repair of the Roads and Utilities within the Elkhorn Ranch subdivision. The Association will undertake snow removal on all Roads, excluding Private Drives, within the Elkhorn Ranch. The Association shall promulgate rules and regulations for the operation and use of these Association common areas, including user fees and limits on usage.

10.3 Association Services. The Association shall provide Association member and guest services as may be approved by the Board from time to time. The Association may, for some of the services, establish and schedule surcharges to be paid by those utilizing such services.

11. VARIANCES FROM DECLARATION.

11.1 Variances. The Association may, by the majority vote of the members of its Board, grant reasonable variances from the strict compliance with the provisions of this Declaration in the case of undue hardship. The Owners of all of the Ranch Estates shall be given at least twenty (20) days advance written notice setting forth the time and place of the meeting of the Board at which any request for a variance is to be considered and describing the requested variance. Owners or

their representatives shall be afforded the opportunity to appear before the meeting of the Board and be heard with respect to the requested variance. Separate rules and regulations and procedures related thereto may be developed regarding variances from Design Review Guidelines for enforcement by the DRC.

12. TERM, AMENDMENT AND TERMINATION OF COVENANTS.

12.1 Term. The term of this Declaration shall be perpetual.

12.2 Amendments. Commencing on the date of recording hereof, and until 75% of the Ranch Estates have been sold, no amendment to this Declaration may be adopted by the Declarant without the written consent of all Ranch Estate owners and their mortgagees. After 75% of the Ranch Estates have been sold, this Declaration may be amended by a vote of 67% of the votes entitled to be cast by the Members, (including Declarant) of the Association; provided that such amendment shall not adversely affect marketability of title to any Ranch Estate. Except as stated above, consent of Mortgagees shall not be required in order to amend this Declaration. The Declaration shall be amended at a meeting called for that purpose and within thirty (30) days after the date of such meeting there shall be recorded in the real estate records of La Plata County, Colorado, an instrument evidencing such amendment. Any instrument amending this Declaration shall be duly executed by the Declarant or President and Secretary of the Association, as the case may be. Notwithstanding the preceding, no amendment shall be permitted that is inconsistent with any of the rights granted, retained or reserved to Elkhorn hereunder or which attempts to enlarge or expand any obligation of Elkhorn hereunder unless such amendment is consented to in writing by Elkhorn. All amendments shall be consistent with the provisions of C.R.S. § 38-33.3-217.

12.3 Rule Against Perpetuities. If any of the terms, covenants, conditions, easements, restrictions, uses, limitations or obligations created by this Declaration shall be unlawful or void for violation of (i) the rule against perpetuities or some analogous statutory provision, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common law rules imposing like or similar time limits, such provision shall continue only for the period of the life of Melvin Goodman, his now living descendants, and the survivor of them, plus twenty-one (21) years.

12.4 Termination. This Declaration, and the common interests of the Owners in Association Property, may be terminated only if all Owners and Eligible Mortgage Holders agree to such termination by an executed, acknowledged instrument duly recorded in the real estate records of La Plata County, Colorado. This Declaration shall also terminate in the event of a taking of all of Elkhorn Ranch by condemnation, eminent domain, or termination as otherwise (except for voting) provided by C.R.S. § 38-33.3-218.

12.5 Disbursement of Proceeds. Upon the termination of this Declaration all property owned by the Association shall be disposed of, with the proceeds generated being disbursed, as provided by C.R.S. § 38-33.3-218.

13. CONDEMNATION.

13.1 Condemnation of Association Property. If any Association property is taken or condemned by any authority having the power of eminent domain, all compensation and damages on account of the taking of the Association Property, exclusive of compensation for consequential damages to affected Ranch Estates, shall be payable to the Association and such proceeds shall be

used promptly by the Association to the extent necessary for repair and reconstruction of remaining Association property in as substantial compliance to the original plan of development as possible. If there is an award in excess of the amount necessary to so substantially repair or reconstruct such remaining Association property, it shall, at the Board's discretion, be either refunded or retained by the Association for such uses as it deems appropriate.

14. GENERAL PROVISIONS.

14.1 Sales Activity. Elkhorn may conduct, on Elkhorn Ranch, sales activities, including, but not limited to, the showing of Ranch Estates by Elkhorn and its designated sales agents, maintaining sales and management offices, promoting or marketing events, and maintaining signs advertising Elkhorn Ranch. Elkhorn may locate, or relocate, any sales and management offices on Ranch Estates owned by Elkhorn. Elkhorn reserves the right, at its discretion, to remove from Elkhorn Ranch any or all of its sales and management offices, including all improvements related thereto.

14.2 Conflict with Plats. In the event of any conflict or inconsistency between the provisions of this Declaration and any Plats described in Section 2.24 above, affecting Elkhorn Ranch, including the Plat notes thereon, the provisions of said plats or plat notes, as the case may be, shall govern and control and this Declaration shall automatically be amended, but only to the extent necessary to conform the conflicting provisions hereof with the provisions of said plats, including any plat notes.

14.2 Conflict with Design Review Guidelines. In the event of any conflict or inconsistency between the provisions of this Declaration and the Design Review Guidelines, the provisions of this Declaration shall govern and control and the Design Review Guidelines shall automatically be amended, but only to the extent necessary to conform the conflicting provision therein with the provisions of this Declaration.

14.3 Rights of Eligible Mortgage Holders. Eligible Mortgage Holders shall be entitled to:

- (a) upon request, inspect the books and records of the Association during normal business hours;
- (b) receive written notice of meetings of the Association where the consent of any Eligible Mortgage Holder is required;
- (c) upon request, obtain copies of Association financial statements; and
- (d) where the Owner of any Ranch Estate shall be deemed delinquent in the payment of any Assessment, any Eligible Mortgage Holder of said Ranch Estate shall be given prompt written notice of such delinquency.

14.4 Provisions Incorporated in Deeds. Each provision contained in this Declaration shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any Ranch Estate is granted, devised or conveyed, whether or not set forth or referred to in such deed or other instrument.

14.5 Number and Gender. Unless the context shall otherwise provide, a singular number shall include the plural, a plural number shall include the singular, and the use of any gender shall include all genders.

14.6 No Dedication. Unless expressly provided, nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of Elkhorn Ranch to the public or for any public use.

14.7 Notices. Any notice permitted or required to be delivered as provided in this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered three (3) days after a copy of the same has been posted in the United States mail, postage prepaid for first class mail and addressed to the receiving party at the address last given by such party to the Association. Any notice to the Association shall be sent to such address as it may from time to time designate in writing to each Owner.

14.8 Colorado Law. The interpretation, enforcement or any other matters relative to this Declaration shall be construed and determined in accordance with the laws of the State of Colorado. All parties to this Declaration, or those parties who are benefited by this Declaration, hereby consent to venue for any action commenced with respect to this Declaration being in the District Court in and for the County of La Plata, State of Colorado.

14.9 Disclaimer. No representations or warranties of any kind, express or implied, have been given or made by Declarant, or its agents or employees, in connection with Elkhorn Ranch, or any portion thereof, or any improvement thereon, its physical condition, zoning, compliance with applicable laws, fitness or intended use or operation, cost of maintenance or taxes except as expressly set forth in this Declaration or except as set forth in any Disclosure Statement required to be given under applicable rules of the Colorado Real Estate Commission.

14.10 Designation of Successor. For purposes of this Declaration and the easements, dedications, rights, privileges and reservations set forth herein, a successor and assign of Elkhorn shall be deemed a successor and assign only as specifically designated by Elkhorn by instrument recorded in the real estate records of La Plata County, Colorado, and only with respect to the particular rights or interests specifically designated therein.

14.11 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

14.12 References to Standards. Wherever in this Declaration there is reference to County standards, or other federal, state or local rules, laws or regulations, such references shall automatically be waived, released, modified or amended, as the case may be, to correspond with any subsequent waiver, release, modification or amendment of such rules, laws, regulations or standards.

14.13 Run with the Land. Declarant, for itself, its successors and assigns, hereby declares that all of Elkhorn Ranch shall be held, used and occupied subject to the provisions of this Declaration, and to the covenants and restrictions contained herein, and that the provisions hereof shall run with the land and be binding upon all persons who hereafter become the Owner of any

interest in Elkhorn Ranch.

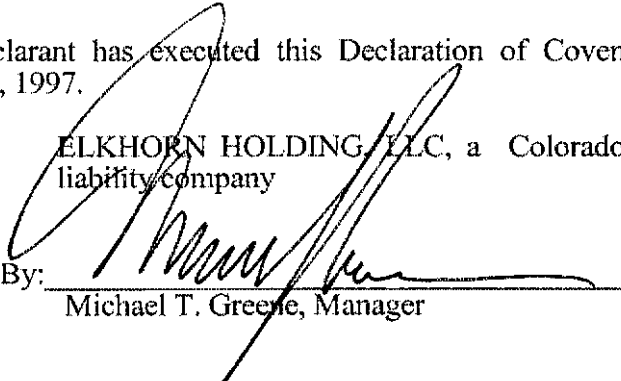
14.14 CCIOA Provisions. In the event of any conflict between the provisions of CCIOA and the provisions of this Declaration, or the articles of incorporation or the bylaws of the Association, the provisions of CCIOA shall control.

14.15 Consent Not Required. All rights, benefits, and reservations granted to, or reserved by, Elkhorn within this Declaration may be exercised by Elkhorn without obtaining the consent of any Owner, Mortgagee, or the Association, except as otherwise stated herein. All rights, benefits and reservations granted to, or reserved by, the Association may, by majority vote of the Board, be exercised by Elkhorn without obtaining the consent of any Owner or Mortgagee. However, consent from Elkhorn must be obtained by the Association as otherwise required by this Declaration.

14.16 Binding Effect. Each Owner, his lessees, their families and guests, the heirs, successors or assigns of an Owner, or any Mortgagee, and any other persons using or occupying a Ranch Estate, shall be bound by, and shall strictly comply with the provisions of this Declaration, the Bylaws, the Articles, any deed restrictions, this Declaration, and all rules, regulations and agreements lawfully made by the Association.

IN WITNESS WHEREOF, Declarant has executed this Declaration of Covenants for Elkhorn Ranch this 23rd day of December, 1997.

ELKHORN HOLDING LLC, a Colorado limited liability company

By: 

Michael T. Greene, Manager

STATE OF COLORADO)
) ss.
COUNTY OF LA PLATA)

The foregoing instrument was acknowledged before me this 24 day of December, 1997, by Michael T. Greene, Manager of Elkhorn Holding, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 2/14-98

Michael T. Greene
Notary Public



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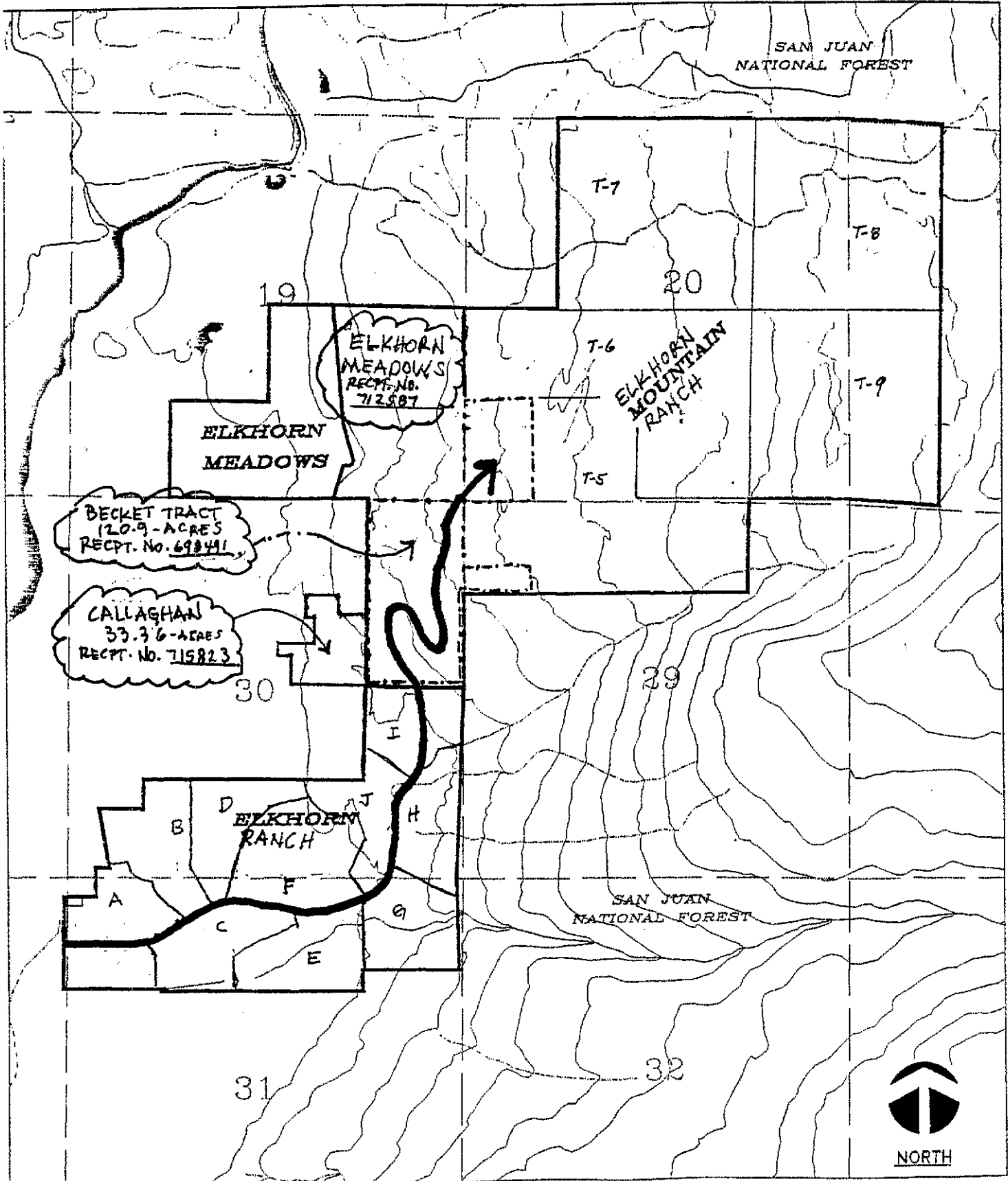


EXHIBIT - "A"
ANNEXABLE PROPERTY
ELKHORN RANCH CC & P
12-23-97