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**DECLARATION OF PROTECTIVE COVENANTS  
FOR EAST BULL MOUNTAIN RANCH**

**THIS DECLARATION OF PROTECTIVE COVENANTS FOR EAST BULL MOUNTAIN RANCH** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2002 by Theodore R. Eck and the Theodore R. Eck Trust (jointly referred to hereinafter as "Declarants"), and the East Bull Mountain Ranch Association, Inc., a Colorado non profit corporation; Thomas L. Heuer; and William J. Ridders and Pamela W. Ridders.

**ARTICLE I  
PURPOSE OF COVENANTS**

The Declarants are the owners of separate interests in individual parcels of certain real property situated wholly within Sections 29, 30 and 31, Township 11 South, Range 89 West, 6<sup>th</sup> P.M., Gunnison County, Colorado, collectively known as East Bull Mountain Ranch, consisting of twelve (12) individual lots and certain common elements, comprising roads, parking space, and such deeded open space as may be acquired in the future, as more particularly shown on the plat recorded on \_\_\_\_\_, 2002, at \_\_\_\_\_ in the records of the Gunnison County Clerk and Recorder's Office.

It is the intention of the Declarants; and Thomas L. Heuer; and William J. Ridders and Pamela W. Ridders, who are also the owners of separate interests in certain real property located in East Bull Mountain Ranch; and the East Bull Mountain Ranch Association, Inc., expressed by their execution of this instrument, that the lands within East Bull Mountain Ranch be developed and maintained as a highly desirable scenic residential area. It is the purpose of these Covenants to preserve the present natural beauty and character of the property along with the views and setting of the East Bull Mountain Ranch to the greatest extent reasonably possible, and the lots therein shall always be protected as much as possible with respect to uses, structures, landscaping, and general development as permitted by this instrument.

The Declarants, and the undersigned East Bull Mountain Ranch Association, Inc., Thomas L. Heuer; and William J. Ridders and Pamela W. Ridders, for themselves and their respective successors and assigns, hereby declare that East Bull Mountain Ranch and each part thereof shall be owned, held, transferred, conveyed, sold, leased, encumbered, used, occupied, improved, maintained and enjoyed subject to these Covenants, and all of which shall run with the land and be binding upon and inure to the benefit of East Bull Mountain Ranch and every part thereof.

## **ARTICLE II**

### **OWNERS - HOMEOWNERS ASSOCIATION**

1. Membership. All persons or other entities (hereinafter referred to as "Owners") who own or acquire the title in fee to any of the lots in by whatever means acquired shall automatically become members of East Bull Mountain Ranch Homeowners Association, Inc., (hereinafter "Association") in accordance with the Articles of Incorporation of the Association, which shall be filed with the Colorado Secretary of State and recorded in the real estate records of the Gunnison County, Colorado, Clerk and Recorder, and as the same may be duly amended from time to time and also filed with the Colorado Secretary of State and recorded with the Gunnison County Clerk and Recorder. There shall be one (1) vote per lot in the Association.

2. Purpose. The Association shall be authorized and empowered to take each and every step necessary or convenient for the implementation and enforcement of these Covenants. The Association shall have the right and responsibility to maintain, preserve, repair, insure, and otherwise protect and promote the interests of the Owners with respect to all common elements and interests of the Owners and the Association. The Association shall maintain, repair, and keep all roads, gates, culverts, and easements in good, safe, and usable condition to the extent that such may be reasonably necessary and desirable. The Association shall enforce all applicable individual sewage disposal system design requirements. The Association shall be authorized to enter into agreements with third parties for the maintenance, repair, and upkeep of roads, gates, culverts, accesses, and open space areas owned by the Association. All costs and expenses associated with preserving, maintaining, repairing, protecting, insuring, and otherwise dealing with roads, gates, culverts, accesses, open space and other common elements and Association property and interests shall be borne by the Owners and shall be assessed, all as more fully provided herein.

3. Declarant Control of the Association. There shall be a period of Declarant control of the Association during which the Declarants (Theodore R. Eck and the Theodore R. Eck Trust) or persons designated by the Declarants, may appoint and remove the officers of the Association and Members of the Executive Board. The period of Declarant control shall terminate no later than the earlier of:

(a) Sixty (60) days after conveyance of seventy-five per cent (75%) of the lots within East Bull Mountain Ranch to Owners other than the Declarants or either one of them; or

(b) two (2) years after the last conveyance of a lot by a Declarant in the ordinary course of business.

### ARTICLE III ARCHITECTURAL REVIEW COMMITTEE

1. Architectural Review Committee. The Architectural Review Committee shall be composed of between three (3) and five (5) natural persons. Prior to Declarants' sale of five (5) lots in the East Bull Mountain Ranch, Declarants may appoint the members of the Architectural Review Committee in Declarants' discretion, and the Executive Board of the Association shall have no authority to remove any member so appointed. Upon the sale of the last lot in the East Bull Mountain Ranch, or at an earlier time as determined by Declarants, the members of the Architectural Review Committee shall be appointed by the Executive Board of the Association. The persons serving on the Architectural Review Committee shall serve at the pleasure of the Executive Board who may remove a member of the Architectural Review Committee, except a member appointed by Declarants, and appoint a new member at any time, provided there shall at all times be at least three (3) persons serving on the Architectural Review Committee. The members of the Architectural Review Committee may also be directors of the Association and need not be Owners. The Architectural Review Committee shall have and exercise all the powers, duties, and responsibilities set out in this instrument.

2. Approval by Architectural Review Committee. No improvements of any kind, including but not limited to dwelling units, garages, barns, accessory buildings, swimming pools, ponds, parking areas, fences, walls, driveways, antennae, satellite dishes, and walks shall be constructed, erected, altered, or permitted to remain within the East Bull Mountain Ranch, nor shall any excavating, tree cutting, and clearing or landscaping be done within the East Bull Mountain Ranch, unless in compliance with all applicable regulations of Gunnison County, including but not limited to the Board of County Commissioners of Gunnison County, Colorado, Resolution No. 02-19, and unless the complete architectural plans and specifications, and a site plan showing the location and orientation thereof, for such erection or alteration and landscaping are approved by the Architectural Review Committee prior to the commencement of such work, except as Declarants may be specifically permitted to do by these Covenants or required to do by any East Bull Mountain Ranch improvements agreement between the Declarants and Gunnison County. Revegetation of all infills and cuts will be required. Plans addressing the revegetation of infills and cuts will be submitted to the Architectural Review Committee prior to any excavation.

At least three (3) complete sets of the architectural and site development plans and specifications shall be submitted to the Architectural Review Committee along with a complete list of all exterior materials and colors to be used. All copies of the complete plans and specifications shall be signed and dated for identification by the Owner or the Owner's architect. The Architectural Review Committee shall have the right to request whatever additional specification information, plans, reports, and the like it deems necessary to evaluate the development proposal throughout the approval and construction process. In addition, the Architectural Review Committee may adopt rules and regulations which shall specify the information, reports, plans, specifications, and the like required to be submitted to the Architectural Review Committee. In the event the Architectural Review Committee fails to take

any action within forty-five (45) days after three (3) copies of the complete architectural and site development plans, specifications, materials, and colors have been submitted to it and the submittal has been certified in writing by the Architectural Review Committee as complete, then all of such submitted architectural plans shall be deemed to be approved. The Architectural Review Committee shall not unreasonably disapprove the architectural plans. The majority vote of the members of the Architectural Review Committee shall be required for approval of plans. In the event the Architectural Review Committee shall disapprove any architectural plans, the person or entity submitting such architectural plans may appeal the matter to the next annual or special meeting of the members of East Bull Mountain Ranch Homeowners Association, Inc., where a vote of seventy-five percent (75%) of the members' votes entitled to be cast at said members' meetings shall be required to change the decision of the Architectural Review Committee.

3. Improvements - Site Location. Building sites for the primary dwelling structures for each lot shall be identified on the plans to be submitted to the Architectural Review Committee. Site review by the Architectural Review Committee for the primary dwelling structure and for all other structures and improvements must be undertaken by the Architectural Review Committee. A designated building site ten acres in area shall be established by each Owner and all construction and improvements on the subject lot must be made within the designated building site. The areas outside the designated building site shall be maintained in native vegetation.

4. Building Permits. An Owner may apply for a building permit from the Gunnison County Building Department at any time; provided, however, the plans approved by the Building Department shall not differ in any substantial way from the plans approved by the Architectural Review Committee. If the plans approved by the Building Department differ in any substantial way as determined by the Architectural Review Committee, then all approvals of the Architectural Review Committee shall be deemed automatically revoked.

5. Variances. The Architectural Review Committee may, by an affirmative vote of a majority of the members of the Architectural Review Committee, allow reasonable variances as to any of the covenants and restrictions governing architectural control contained in this instrument and/or policies or rules promulgated by the Architectural Review Committee, on such terms and conditions as it shall require. No variance shall be granted which contravenes any provisions of these Covenants required by an approval obtained by Declarants from Gunnison County for East Bull Mountain Ranch or which violate the Gunnison County Land Use and Building Codes or the Board of County Commissioners of Gunnison County, Colorado, Resolution No. 02-19. No variance shall be granted without written notice of the request for such variance provided ten (10) days prior to the hearing for said variance to all lot Owners within the East Bull Mountain Ranch. Notice to such lot Owners shall be deemed complete when placed in the United States Mail, first-class postage prepaid, to the last known address for each lot Owner as provided to the Association.

6. General Requirements. The Architectural Review Committee shall exercise its best judgment to see that all improvements, construction, landscaping, and alterations within East Bull Mountain Ranch harmonize to the greatest extent possible with the surroundings and with other structures as to design, materials, color, sitting, height, grade, finished ground elevation of neighboring lots, and other design features. The Architectural Review Committee shall strive to protect the seclusion and view of each lot insofar as possible (taking into account final buildout of all lots in the East Bull Mountain Ranch) in the development of East Bull Mountain Ranch pursuant to these Covenants and shall endeavor to protect and preserve the visual character of the property and preserve and maintain the trees in East Bull Mountain Ranch.

A. Soils and Foundation Report, and Grading and Drainage Plan. Prior to the issuance of a building permit by Gunnison County, a lot Owner shall cause to be prepared and submit to Gunnison County and the Architectural Review Committee a soils and foundation report, an independent sewage disposal system design, and a grading and drainage plan prepared by a professional engineer. All improvements and structures shall be constructed in accordance with the recommendations and conditions of such report and plan which are included by Gunnison County as conditions of the building permit or are made requirements or conditions of the approval of the Architectural Review Committee.

B. Materials and Landscaping. In its review of any proposed development activity, the Architectural Review Committee shall evaluate, among other things, the materials to be used on the outside of buildings or structures, including exterior colors, location with respect to topography and finished grade elevations, and harmony of landscaping with the natural setting and native trees and other vegetation within East Bull Mountain Ranch. The Committee shall encourage "xeriscape" landscaping which emphasizes the use of indigenous foliage and decreased water consumption.

C. Site Location. The Architectural Review Committee shall exercise its judgment to preserve to the greatest extent possible the natural characteristics of each lot and all natural vegetation, including trees and bushes, and the natural setting of each building site. The Architectural Review Committee must approve the location of all structures and improvements to be located on each lot (except as provided above in Article IV.3).

D. Fencing. The Architectural Review Committee must approve all fencing prior to installation. Barbed wire and chain link fencing shall be prohibited. Only wooden and metal fencing shall be permitted within the East Bull Mountain Ranch, with limited exceptions pertaining specifically to the

protection of gardens from wildlife damage, kennels, corrals, or other elements where a wooden or metal fence would not serve the purpose desired, whether it is to keep animals in an enclosed area or to keep wildlife out of an enclosed area. The type and location of all fencing must be approved by the Architectural Review Committee. One basis for consideration by the Architectural Review Committee of fencing will be how it affects wildlife. Fencing shall not exceed forty-eight (48) inches in height, shall not have more than three (3) horizontal poles, and the bottom pole shall be at least eighteen (18) inches off the ground. Wire fencing shall not exceed fifty (50) inches in height, shall not have more than five (5) strands, and the bottom strand shall be at least eighteen (18) inches off the ground.

- E. Wildfire. The East Bull Mountain Ranch Architectural Review Committee shall follow the recommendations of the Colorado State Forester wildfire prevention guidelines, specified by the pamphlet "Wildfire Protection in the Wildland Urban Interface prepared by the Colorado State Forest Service (CSFS #143-691), wherever practical, in granting approvals for construction of residences and other structures submitted to it for approval. The Architectural Review Committee shall, wherever practical, incorporate the guidelines set forth in that pamphlet into the plans approved for lots in the East Bull Mountain Ranch to protect the East Bull Mountain Ranch, and all of the buildings constructed therein, from the danger of wildfire. The Architectural Review Committee will consider the guidelines in the most current wildfire publication by the Colorado State Forest Service.

Metal roofs or other fire resistant roofs will be required. Siding of all structures shall be constructed of fire retardant materials or materials "treated" to be fire retardant.

- F. Lighting. The Architectural Review Committee shall consider exterior lighting plans and will require that all exterior lighting (with possible exceptions for lighting necessary for safety) be directed towards the applicant's property and consist solely of down lighting. It will also require that all lot Owners make every effort possible to limit the use of exterior lighting at night. It shall encourage Owners to build in such a fashion that all light sources not be directly visible from outside of the Owner's property. The intent behind these considerations is to preserve the rural character of the East Bull Mountain Ranch by limiting exterior lighting as much as possible while maintaining a safe atmosphere.

7. Preliminary Approvals. Lot Owners who anticipate constructing improvements on lands within East Bull Mountain Ranch may submit preliminary sketches of such improvements to the Architectural Review Committee for informal and preliminary approval or disapproval. All preliminary sketches should be submitted in at least three (3) sets and should contain sufficient general information on those matters required to be in the complete architectural and site development plans and specifications to allow the Architectural Review Committee to grant an informed preliminary approval or disapproval. The Architectural Review Committee shall never be finally committed or bound by any preliminary or informal approval or disapproval until such time as complete architectural and site development plans, specifications, materials, and colors are submitted and approved or disapproved. The preliminary approval is offered as an accommodation only, and the Architectural Review Committee may set fees for this service.

8. Architectural and Site Development Plans. The Architectural Review Committee shall disapprove any architectural and site development plans submitted to it which do not contain sufficient information for it to exercise the judgment required of it by these Covenants.

9. Architectural Review Committee Not Liable. The Architectural Review Committee shall not be liable for damages to any person or entity submitting any plans for approval, or to any Owner or Owners of land within East Bull Mountain Ranch, by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such plans. The Architectural Review Committee shall have no liability or responsibility for any representations made to any Owner or prospective Owner by any third parties. The decisions of the Architectural Review Committee shall be governed by these Covenants and any rules or regulations duly adopted by the Architectural Review Committee pursuant to these Covenants.

10. Written Records. The Architectural Review Committee shall keep and safeguard for at least five (5) years complete permanent written records of all approved applications, including one (1) set of the final 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.

11. Authority to Promulgate Rules and Regulations. The Architectural Review Committee may promulgate and adopt rules and regulations necessary to implement these Covenants. These rules and regulations may include submission requirements concerning the type of information, reports, plans and specifications, and other information necessary to make an informed decision regarding requests for development, modifications to buildings, and the like.

12. County Approvals Required. Compliance with the Architectural Review Committee rules and regulations is not a substitute for compliance with Gunnison County land use regulations, and each Owner is responsible for obtaining all approvals as may be required by Gunnison County prior to commencing construction.

**ARTICLE IV**  
**PROPERTY USE RESTRICTIONS AND PROTECTIVE COVENANTS**

1. Permitted Uses. Only one (1) single-family dwelling to be used exclusively for seasonal-use residential purposes, together with structures appurtenant thereto, shall be constructed on any lot in the East Bull Mountain Ranch. The maximum aggregate size of all buildings permitted on any one lot shall be 3,200 square feet or less. The maximum house size permitted on each lot is 2,200 square feet excluding unenclosed decks, patios and porches.

An Owner shall not be permitted to lease such Owner's home for an aggregate period of time exceeding three (3) months during any calendar year under any lease or combination of leases. It is the express intent and desire of all Owners that the Owners or their family members shall be the primary residents or users of the home(s) construed on their respective lots.

2. No Further Subdivision. No lot described on the recorded Final Plat of East Bull Mountain Ranch shall ever be further subdivided into smaller lots or conveyed or encumbered in less than the full dimensions as shown on the recorded Final Plat of East Bull Mountain Ranch; provided, however, conveyances or dedications of easements for utilities if approved by the Architectural Review Committee may be made for less than all of one (1) lot. Notwithstanding the foregoing, a lot line adjustment between two (2) lots in East Bull Mountain Ranch shall be deemed a permitted subdivision, subject, however, to any reviews or disapprovals that may be required by the Gunnison County Land Use Code and to the prior approval of the Architectural Review Committee.

3. Domestic Animals. Except as expressly limited herein, domestic animals shall be permitted within the East Bull Mountain Ranch and shall be subject to any rules and regulations which may be promulgated by the Executive Board or Gunnison County.

A lot Owner shall be entitled to keep a maximum of two (2) dogs on his property. For the purposes of this Article, the definition of "Dog" or "Dog(s)" shall not include dogs under the age of six (6) months. Dogs shall be kept under the control of the owner at all times and shall not be permitted to run free or to cause a nuisance in the East Bull Mountain Ranch. No dogs shall be allowed beyond the boundaries of the lot owned by the persons where the dog is housed unless accompanied by a person in full control of such dog. Dogs shall be leashed, chained, fenced, "electric fenced," kenneled, or housed at all times. Location of kennels shall be subject to review of the Architectural Review Committee.

The Association shall have the right to assess and enforce penalties against Owners violating these restrictions applying to dogs as follows: One Hundred Dollars (\$100.00) for the first violation committed by an Owner's dog, and One Hundred Dollars (\$100.00) plus an additional Fifty Dollars (\$50.00) for each subsequent violation, such that the fine increases in Fifty Dollar (\$50.00) increments for each succeeding violation. If any dog commits four (4)



violations or any dog is caught chasing or molesting deer, elk, or any domestic animals, the Association shall be authorized to prohibit the property Owner from continuing to maintain the offending animal on the Owner's property.

Areas where an Owner keeps any animals shall be kept reasonably clean and free of refuse, insects, and waste at all times. No commercial animal breeding activities of any kind shall be permitted within the East Bull Mountain Ranch.

Notwithstanding the foregoing, no animal(s) may be kept within a lot or a dwelling which, in the good-faith judgment of the Executive Board, result(s) in any annoyance to residents in the vicinity or to lot Owners within the East Bull Mountain Ranch. Except as expressly limited herein, domestic animals shall be permitted subject to any rules and regulations which may be promulgated by the Executive Board. Horses will be allowed within the East Bull Mountain Ranch; provided, however, that all grazing on such lots shall be regulated and controlled by the Association.

All livestock feed maintained on any lot must be fenced with an 8-foot wildlife-proof fence, which fence shall be constructed and maintained at the expense of the subject Owner. No Owner may feed or otherwise attempt to attract any wildlife.

4. Mining, Drilling, or Quarrying. Mining, quarrying, tunneling, excavating, or drilling for any substance within the earth, including oil, gas, minerals, gravel, sand, rock, and earth, shall not be permitted within the limits of East Bull Mountain Ranch.

5. Sewage Disposal Systems/Domestic Water Wells. Each individual lot Owner shall be responsible for the construction, operation, maintenance, and repair of the individual sewage disposal system located on the Owner's lot, and Owner shall be required to maintain such systems in accordance with all applicable Gunnison County regulations. Should the health, safety, or welfare of any person be affected by the failure of any Owner to properly construct, operate, maintain, or repair that lot's individual sewage disposal system, the Association shall have the authority to enter onto such land for the purposes of maintaining or repairing such system. All costs incurred by such action shall be borne by the Owner of the system and shall constitute a lien pursuant to Article VII on the Owner's property until paid in full by the Owner. It is anticipated that all lots within the East Bull Mountain Ranch will be served by individual domestic water wells, provided prior approval shall have been obtained from the Architectural Review Committee, and each Owner shall be solely responsible for the cost of operation, maintenance, repair and replacement of any such well.

6. Trees. No Owner shall remove any healthy, living trees without first having obtained the approval of the Architectural Review Committee. All construction, landscaping, and development on any lot shall seek to minimize the removal of trees and to preserve the natural

trees and vegetation to the greatest extent possible while bearing in mind wildfire considerations.

7. Shiny Materials. No building or improvements shall contain exterior roofs or siding materials which are reflective or shiny.

8. Hunting. Hunting shall be prohibited within the East Bull Mountain Ranch. With the approval of the Association, and upon prior consultation with the Colorado Division of Wildlife, a lot Owner may, consistent with the requirements of law, destroy or remove wildlife which constitutes a nuisance.

9. Number and Location of Buildings. No buildings shall be placed, erected, altered, or permitted to remain on any lots except as approved by the Architectural Review Committee.

10. Completion of Construction. Any construction activity on any lot in East Bull Mountain Ranch shall be completed, fully cleaned up, and landscaped within eighteen (18) months from the issuance of a building permit, unless the lot Owner shall first obtain a variance from the Architectural Review Committee to allow for a longer period of construction upon proof of due diligence. In the event a variance is not secured and eighteen (18) months from issuance of a building permit has passed, the Association may assess penalties in any amount it deems appropriate.

11. Enclosure of Unsightly Facilities and Equipment. All unsightly structures, facilities, equipment, and other items, including but not limited to those specified below, shall be enclosed within a solid structure sufficient to screen such things from view from the East Bull Mountain Ranch roads and neighboring homes to the greatest extent possible. Any motor home, trailer, boat, truck, tractor, motorcycle, snow removal or garden equipment, and any similar item shall be kept at all times, except when in actual use, in an enclosed garage. Any refuse or trash containers, propane tanks, fuel storage tanks, or other facilities, service area, or storage pile shall be enclosed within a structure or appropriately screened from view by planting or fencing approved by the Architectural Review Committee and adequate to conceal the same from neighbors and roads. No lumber, metals, bulk materials, scrap, refuse, or trash shall be kept, stored, or allowed to accumulate on any lot except building materials during the course of construction and only for such reasonable periods of time as are necessary prior to the collection of or disposal thereof.

12. Noxious or Offensive Activity or Sounds. No noxious or offensive activity or sounds shall be conducted or transmitted upon any portion of the East Bull Mountain Ranch at any time nor shall anything be done or permitted which may be or become a nuisance to other property or to the Owners thereof by sight or sound.

13. Fireplaces. Only solid-fuel burning stoves as defined by C.R.S. 25-7-401, et. seq., and the regulations promulgated thereunder and permitted by Gunnison County, or natural gas/propane burning stoves and appliances will be allowed in any dwelling unit.

14. Fences. All fences shall be constructed pursuant to Article IV. 6(D). Furthermore, any wire fence constructed for pasture purposes shall be constructed pursuant to Colorado Division of Wildlife specifications. Property owners shall be required to provide their own fencing to protect any haystacks located on their property. The Colorado Division of Wildlife shall not be liable for any damage to gardens, flowers, shrubs, trees, or any other greenery caused by the actions of any wild game.

15. Firearms. The discharge or shooting of firearms is prohibited in East Bull Mountain Ranch except as may be permitted by rules and regulations promulgated by the Executive Board of the Association.

16. Unauthorized Vehicles. No snowmobiles or all-terrain vehicles (ATVs) shall be allowed to be used within the East Bull Mountain Ranch.

17. Satellite Dishes. Satellite dishes shall be allowed within the East Bull Mountain Ranch. Location and size of all satellite dishes shall be subject to Association approval.

18. Commercial Activities. No commercial activities shall be permitted on any lot in the East Bull Mountain Ranch. The storage of materials, goods, equipment, and other items used or associated with commercial activities shall not be permitted on any lot in the East Bull Mountain Ranch; provided, however, personal vehicles with a business name placed thereon shall not be prohibited. Owners shall be permitted to maintain an executive office, in-home occupation, artistic or literary activity so long as uses are limited to those that generate, in the good faith judgment of the Executive Committee, no more than a negligible additional impact of traffic, sight or sound on the subject lot or within the East Bull Mountain Ranch.

19. Restrictions, Requirements and conditions Regarding Public Utilities, Use of Dwellings, Waiver of Road Standards. All terms, conditions and sanctions set forth in the Board of County Commissioners of Gunnison County, Colorado, Resolution No. 02-19, a copy of which is attached hereto as Exhibit B, including but not limited to restrictions, requirements and conditions regarding public utilities, use of dwellings, and the waiver of road standards are incorporated herein by reference as if fully set forth herein. Notice is hereby given that the waiver of road standards shall automatically terminate in certain circumstances: termination of the waiver will result in certain obligations to the Owners.

20. Duplexes/Multi-Family Structures. Duplexes, guest homes, and multi-family structures are prohibited in the East Bull Mountain Ranch.

21. Outbuildings. Owners will be permitted to build barns, greenhouses and auxiliary buildings such as tool sheds, work areas, detached garages, and the like, provided any such building shall comply with the Gunnison County land use regulations and further subject to Architectural Review Committee review and approval.

When necessary to mitigate or screen unsightly property, variances applying to size and height of any outbuilding may be granted by the Architectural Review Committee. No barn, greenhouse, or auxiliary building shall be used for any commercial purpose nor shall they contain living facilities or kitchens. The location of all outbuildings shall be approved by the Architectural Review Committee, whether or not located within an approved building envelope.

22. Modular/Mobile Homes. No modular, mobile, or manufactured homes shall be constructed within the East Bull Mountain Ranch. This prohibition shall not apply to construction trailers which shall be permitted for eighteen (18) months from the date of commencement of construction, or until the issuance of a certificate of occupancy, whichever first occurs; provided, however, construction trailers may only be used for construction, office, and storage purposes and shall not be occupied as a residence for any period of time. All other trailer homes shall be prohibited.

23. No Public Utilities. No public utilities will be permitted to serve any lot within East Bull Mountain Ranch without the prior approval of the Architectural Review Committee and unless the Owner first complies with the necessary permitting process for year-round use by the Board of County Commissioners Gunnison County.

24. Use of East Bull Mountain Ranch Roads. Each Owner may use any part of the East Bull Mountain Ranch roads for travel to/from State Highway 133, for travel between separate lots owned by the same Owner, or to access open space areas or other common elements. Except for such rights of access to lands adjacent to East Bull Mountain Ranch as may be reserved by Theodore R. Eck and the Theodore R. Eck Trust solely for the use of themselves, their heirs and assigns, and their employees and invitees; no Owner may use any part of the East Bull Mountain Ranch roads to gain access to any other lands adjacent to East Bull Mountain Ranch. Any Owner may hike or bike on the East Bull Mountain Ranch roads, but horseback riding shall not be permitted on graveled areas. In general, road use will be limited to travel from the entrance of State Highway 133 to the driveway of each lot by the most direct and shortest route along the East Bull Mountain Ranch road. No actions of the Association may result in changes in road use or road improvements without the prior written approval of the Board of County Commissioners of Gunnison County.

Motorcycles, snowmobiles, all-terrain vehicles, or other such motorized off-road vehicles shall not have any greater right to road or off-road use within East Bull Mountain Ranch than other motorized vehicles. Such off-road vehicles shall not be permitted on or off the roads or constructed driveways except for transportation to or from a parcel or home and not primarily

recreation, racing or similar purposes. Except for the use of any such vehicle by an Owner, their guest or invitee upon that Owner's lot, any other motorized vehicles shall not be permitted off the roads or constructed driveways within East Bull Mountain Ranch. Notwithstanding the foregoing, all motor vehicles within East Bull Mountain Ranch shall be operated in a safe, reasonable and quiet manner so as not to disturb or be a nuisance to other Owners, their guests or invitees.

25. General Restriction. All lots in the East Bull Mountain Ranch shall comply with restrictions contained in any other section of these Protective Covenants.

## ARTICLE V COLLECTION OF ASSESSMENTS - ENFORCEMENT

1. Assessments. All lot Owners shall be obligated to pay any assessments lawfully imposed by the Executive Board of the Association. To the extent the Association is responsible therefor, assessments may be lawfully imposed for any items of common expense which may include, among other things: expenses and costs of maintaining, repairing, and plowing of roads within and accessing the East Bull Mountain Ranch; expenses for maintaining, improving, and preserving the Association's common elements; expenses of the Architectural Review Committee; and insurance, accounting, and legal functions of the Association. Such assessments shall be deemed general assessments and shall be borne pro rata by all Owners. The Executive Board may establish contingency and reserve funds for the maintenance and improvement of the Association's common elements and any other anticipated costs and expenses of the Association to be incurred in pursuit of its purpose. Contingency and reserve funds shall be in such an amount as the Executive Board may deem necessary and appropriate for the aforesaid purposes. Each Owner shall be required to pay his pro rata portion of these funds. As used herein, an Owner's pro rata portion of common expenses shall mean a fraction formed by the number of lots purchased and held by the lot Owner (numerator) and the number of lots in the East Bull Mountain Ranch (denominator). The Executive Board shall have the right during any calendar year to levy and assess against all of the Owners a special assessment for such purpose or purposes, in accordance with these Covenants, or the Articles or Bylaws of the Association, as may be necessary. Such special assessment shall be paid for in equal portions by the Owners obligated to pay such assessment and shall be due and payable as determined by the Executive Board.

2. Lien for Non-Payment of Assessments. All sums assessed by the Executive Board, including without limitation the share of common expense assessments chargeable to any lot Owner, any fines which may be levied on a lot Owner, and unpaid utility fees and assessments charged to a lot Owner shall constitute a lien against such lot superior (prior) to all other liens and encumbrances, excepting only:

A. Tax and special assessment liens on the lots in favor of any governmental assessing unit.

- B. All sums unpaid on a first mortgage of record, including any unpaid obligatory sums as may be provided by encumbrance.
- C. Each Owner hereby agrees that the Association's lien on a lot for assessments has hereinabove described shall be superior to the Homestead Exemption provided by C.R.S. §38-41-201, et seq., and each Owner hereby agrees that the acceptance of the deed or other instrument of conveyance in regard to any lot within East Bull Mountain Ranch shall signify such grantee's waiver of the homestead right granted in said section of the Colorado statutes.
- D. Any recorded lien for non-payment of the common expenses may be released by recording a release of lien executed by a member of the Executive Board.

If any assessment shall remain unpaid after thirty (30) days after the due date thereof, such unpaid sums shall bear interest from and after the due date thereof at the maximum rate of interest permitted by law, or at such rate as is determined by the Executive Board, and the Executive Board may impose a late charge on such defaulting Owner as may be established by the Board. In addition, the Executive Board shall be entitled to collect reasonable attorneys' fees incurred in connection with any demands for payment and/or collection of delinquent assessments. To evidence such lien, the Executive Board shall prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the lot, and its legal description. Such a notice shall be signed by one (1) member of the Executive Board and shall be recorded in the Office of the Clerk and Recorder of the County of Gunnison, Colorado. Such lien may be enforced by foreclosure of the defaulting Owner's lot by the Association in like manner as a mortgage on real property, upon the recording of a notice of claim thereof. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien, and all reasonable attorneys' fees. The Owner shall also be required to pay to the Association any additional assessments against the lot during the period of foreclosure, and the Association shall be entitled to the appointment of a receiver to collect the same. The Executive Board, for the Association, shall have the power to bid on the lot at foreclosure sale and acquire and hold, lease, mortgage, and convey same. The Association, at its election, and in addition to any other remedies it may have at law or in equity, may also sue an Owner personally to collect any monies owed the Association.

3. Enforcement Actions. The Association, acting by and through its Executive Board, shall have the right to prosecute any action to enforce the provisions of all of these Covenants by injunctive relief, on behalf of itself and all or part of the Owners of the lands within East Bull Mountain Ranch. In addition, each Owner of land within East Bull Mountain Ranch, including the Association, shall have the right to prosecute any action for injunctive relief and for damages by reason of any violation of these Covenants. The prevailing party in any enforcement action shall be entitled to an award of its reasonable costs and attorneys' fees. The Executive Board shall be entitled to assess penalties for late payment of assessments due the Association and to collect

interest thereon at rates to be determined from time to time by the Executive Board but not to exceed 1.5 percent per month. After thirty (30) days, written notice to any Owner of a violation of these Covenants, and the Owner's failure to eliminate or cure said violation, the Association may levy, in addition to the other remedies set forth herein, a penalty of \$25.00 per day for every day the violation exists or continues after the expiration of said 30-day period. The Board of County Commissioners of Gunnison County, Colorado, shall have the right to prosecute any legal or equitable action to enforce the provisions of Article II, Sections 2, 4 and 5, and Article IV, Sections 1, 20 and 25. In addition to any other relief awarded, the prevailing party shall be entitled to an award of its reasonable attorneys fees and costs incurred in connection with any such action.

4. Limitations on Actions. In the event any construction or alteration or landscaping work is commenced upon any of the lands in East Bull Mountain Ranch in violation of these Covenants and no action is commenced within one (1) year thereafter to restrain such violation, then injunctive or equitable relief shall be denied, but an action for damages shall still be available to any party aggrieved. This one-year limitation shall not apply to injunctive or equitable relief against other violations of these Covenants.

## **ARTICLE VI**

### **EASEMENTS**

1. Easements Shown on Final Plat. The Association is entitled to use such easements necessary for the performance of its duties hereunder as are reflected on the Final Plat for the East Bull Mountain Ranch. Except by agreement with a property Owner, the Association shall have no obligation to pay any amount for the use and enjoyment of such easement. The Association shall pay for the cost of maintaining and repairing any improvements which it places on any easements.

2. Easements for Access and Repairs. The Association shall be entitled to an easement across any of the lots within the East Bull Mountain Ranch for the purposes of accessing any of the Association's property, protecting any Association property, or for necessary repairs or emergency circumstances. The Association may access all lots within the East Bull Mountain Ranch at reasonable times to determine compliance with the conditions of approvals of the East Bull Mountain Ranch granted by the Gunnison County Commissioners and to determine and enforce compliance with all of the provisions of these Covenants.

## **ARTICLE VII**

### **TRASH FACILITY**

1. Trash Facility Area. An area dedicated for use as a community trash facility may be designated by the Association in order to provide common trash service. Should the Association elect to construct a trash facility, said facility shall be entirely enclosed, including a roof and doors with adequate latches to prevent wildlife from gaining access to the facility, in an

all-wooden or simulated wooden structure built to complement the quality of the East Bull Mountain Ranch. The structure shall be stained or painted a color harmonious with the natural surroundings and hidden from view as much as is reasonably possible in containers that are bear-proof pursuant to specifications of the North American Bear Society.

## **ARTICLE VIII** **INSURANCE**

1. Types of Insurance. The Association shall obtain and keep in full force and effect the following insurance coverage:

- A. The Executive Board, at its discretion, may elect to secure 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.
- B. Coverage for members of the Board and officers of the Association, including committee members, against libel, slander, false arrest, invasion of privacy, errors and omissions, and other forms of liability generally covered in officers and directors liability policies.
- C. Coverage against such other risks of a similar or dissimilar nature as the Board deems appropriate.

## **ARTICLE IX** **GENERAL PROVISIONS**

1. Covenants to Run. All of the covenants contained in this instrument shall be a burden on the title to all of the lands in East Bull Mountain Ranch, and the benefits thereof shall inure to the Owners of the lands in East Bull Mountain Ranch and the benefits, and burdens of all said covenants shall run with the title to all of the lands in East Bull Mountain Ranch.

2. Termination of Covenants. In the event these Covenants have not been sooner lawfully terminated pursuant to any applicable laws of the State of Colorado and Gunnison County, Colorado, and the provisions herein contained, these Covenants may be terminated on January 1 of the year 2027 by a vote of seventy-five percent (75%) of the votes entitled to be cast by the members of the Association; subject, however, to the prior written approval of the Board of County Commissioners of Gunnison County, Colorado, which approval shall not be unreasonably withheld. If these Covenants are not so terminated, then they shall continue to be in full force and effect for successive twenty-five (25) year periods unless, at the close of a 25-year period, the Covenants are terminated by a vote of seventy-five percent (75%) of the votes entitled to be cast



by the members of the Association at a meeting of the members duly held; subject, however, to the prior written approval of the Board of County Commissioners of Gunnison County, Colorado, which approval shall not be unreasonably withheld. In the event of any such termination by the members, a properly certified copy of the resolution of termination shall be placed on record in Gunnison County, Colorado, not more than six (6) months after the meeting at which such vote is cast.

3. Amendment of Covenants. These Covenants may be amended by a vote of seventy-five percent (75%) of the votes entitled to be cast by the members of the Association, said vote to be cast at a meeting of the members duly held, provided a properly certified copy of the resolution of amendment be placed on record in Gunnison County, Colorado, no more than six (6) months after said meeting; except that any such amendment which purports to affect Article III, Sections 2, 4, 5, or 6, or Article IV, Sections 1, 2, 5, 13, 19, 20, 21 or 25 shall require the prior written approval of the Board of County Commissioners of Gunnison County, Colorado, which approval shall not be unreasonably withheld.

4. Applicability of Colorado Common Interest Ownership Act. Pursuant to C.R.S. section 38-33.3-101 et seq., the East Bull Mountain Ranch is a common interest community (a "planned community") and is, therefore, subject to all provisions of the Colorado Common Interest Ownership Act ("CCIOA"). In the event of a conflict between the Covenants and CCIOA, to the maximum extent permitted by law, the provisions of the Covenants shall control.

5. Severability. Should any part or parts of these Covenants be declared invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining covenants.

6. Paragraph Headings and Underlining. The paragraph headings and underlining within this instrument are for convenience only and shall not be construed to be a specific part of the covenants contained herein.

7. Limited Liability. The Association and the Board shall not be liable to any part 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 without malice. The Owners severally agree to indemnify the Association and the Board against loss resulting from such action or failure to act if the Association and the Board acted or failed to act in good faith and without malice.

IN WITNESS WHEREOF, this Declaration of Protective Covenants for East Bull Mountain Ranch has been executed as of the day and year first written above.

**DECLARANTS**

\_\_\_\_\_  
Theodore R. Eck, Individually

**Theodore R. Eck Trust**

By \_\_\_\_\_  
Theodore R. Eck, Trustee

**READ AND APPROVED**

**East Bull Mountain Ranch Association, Inc.**

By \_\_\_\_\_  
Theodore R. Eck, President

\_\_\_\_\_  
Thomas L. Heuer

\_\_\_\_\_  
William J. Ridders

\_\_\_\_\_  
Pamela W. Ridders

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Acknowledged, subscribed, and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 2002  
by Theodore R. Eck, individually, as Trustee for the Theodore R. Eck Trust, and as President of  
the East Bull Mountain Ranch Homeowners Association, Inc.

WITNESS my hand and official seal.

My Commission expires: \_\_\_\_\_

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

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Acknowledged, subscribed, and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 2002  
by Thomas L. Heuer.

WITNESS my hand and official seal.

My Commission expires: \_\_\_\_\_

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

STATE OF \_\_\_\_\_

)

) ss.

COUNTY OF \_\_\_\_\_

)

Acknowledged, subscribed, and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 2002  
by William J. Ridders.

WITNESS my hand and official seal.

My Commission expires: \_\_\_\_\_

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

STATE OF \_\_\_\_\_

)

) ss.

COUNTY OF \_\_\_\_\_

)

Acknowledged, subscribed, and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 2002  
by Pamela W. Ridders.

WITNESS my hand and official seal.

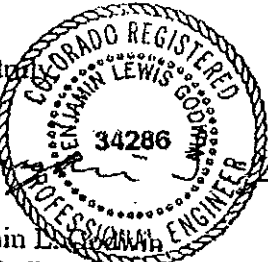
My Commission expires: \_\_\_\_\_

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

To: Gunnison County Public Works Department  
From: Ben Godwin  
Date: June 17, 2002  
Re: East Bull Mountain Ranch - Roads and Parking Area

On Thursday, June 13, 2002, I inspected the newly graveled roads of the East Bull Mountain Ranch, including the new parking area. All of the work performed and the materials used meet or exceed the recommendations that I have specified for this project. I traveled the roads in their entirety and believe that they are fully capable of handling the traffic load anticipated.

Yours truly,



Benjamin L. Godwin  
Colorado Registered Professional Engineer No. 34286

Cc: Ted Eck  
Sherry Rubin