

**DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS FOR  
THE DANNI RANCH**

This Declaration is made by Henry A. Gallin and Robert R. Stuplich, hereinafter termed the "Declarant" as of the 7th day of August, 1992.

**ARTICLE I**

**RECITALS**

1.1 The Declarant is the owner of certain real property, hereinafter termed the "Property", situate in Gunnison County, Colorado described in Exhibit A attached hereto.

1.2 The Declarant is also the owner of certain water rights appurtenant to the Property, described in Exhibit B attached hereto.

1.3 The Declarant intends that the Property be developed as a residential single-family subdivision which will achieve certain objects and purposes; namely, that the subdivision will be a residential community which is aesthetically pleasing, harmonious with the environment, and conducive to residential and recreational use for all concerned on a lasting basis and that such subdivision will preserve the natural beauty of the Property to the fullest extent possible during all seasons of the year.

1.4 The Declarant believes that such objects and purposes can be best achieved through the imposition of covenants, conditions, restrictions and easements upon the Property and through the control of the location, composition and architecture of all improvements to be placed upon the Property. He further believes that the objects and purposes may be implemented by continuing control thereover, all as hereinafter set forth.

Now therefore, in order to achieve the above-described objects and purposes, the Declarant does hereby impose upon the Property the covenants, conditions, restrictions and easements set forth herein. All thereof shall run with the Property and shall be considered to be a part of any and all conveyances, transfers, leases, and other documents effecting all or any part of the Property whether or not specifically set forth therein.

**ARTICLE II**

**DEFINITIONS**

The following terms and words as used herein are defined as follows:

Section 2.1 The Danni Ranch Association Documents. "The Danni Ranch Association Documents" shall mean the basic documents creating and governing the Association, including this Declaration, the Articles of Incorporation and Bylaws, the design guidelines, and any procedures, rules, regulations or policies adopted thereunder by the Association or the Design Review Board.

Section 2.2 The Danni Ranch. "The Danni Ranch" shall mean the planned community created by this Declaration consisting of the Property and all the improvements located thereon.

Section 2.3 Articles. "Articles" or "Articles of Incorporation" shall mean the Articles of Incorporation of the Association which are filed with the Secretary of State to create the Association.

Section 2.4 Assessments. "Assessments" shall mean annual, special, and default assessments levied pursuant to Article IV hereof to provide the funds to meet the estimated cash requirements of the Association.

Section 2.5 Association. "Association" shall mean The Danni Ranch Association, a non-profit membership corporation, or any successor thereof by whatever name, charged with the duties and obligations hereafter set forth.

Section 2.6 Board. "Board of Directors" or "Board" shall mean the Board of Directors of the Association which is the governing body of the Association.

Section 2.7 Building. "Building" shall mean a building or structure constructed on a Ranch Estate within the Property.

Section 2.8 Building Site. "Building Site" shall mean the envelope or area within the Ranch Estate where a building or other improvement shall be located as designated on the Plat.

Section 2.9 Bylaws. "Bylaws" shall mean the Bylaws of the Association which establish the methods and procedures of its operation.

Section 2.10 Caretaker Tract. "Caretaker Tract" shall mean the real property so designated on the Plat.

Section 2.11 Declarant. "Declarant" shall refer to Henry A. Gallin and Robert R. Stuplich in their capacity as Declarant of these Covenants.

Section 2.12 Design Guidelines. "Design Guidelines" or "The Danni Ranch Association Design Guidelines" shall mean those guidelines and rules published from time to time by the Design Review Board.

Section 2.13 Design Review Board. "Design Review Board" shall mean the committee formed pursuant to Article VI hereof to maintain the quality and architectural harmony of improvements in The Danni Ranch.

Section 2.14 Improvement. "Improvement" shall mean all buildings and structures, parking areas, loading areas, fences, walls, hedges, plantings, poles, driveways, ponds, lakes, recreational facilities, signs, changes in any exterior color or shape, excavation and all other site work including without limitation grading, road construction, utility improvements, removal of trees or plantings and so forth, and any new exterior construction or exterior improvement which may not be included in the foregoing. Improvement does not include turf, shrub, or tree repair or replacement of a magnitude which does not change

exterior colors or exterior appearances. Improvement does include both original improvements and all later changes and improvements.

Section 2.15 Irrigated Lands. "Irrigated Lands" shall mean the irrigated lands within Ranch Estates 1 and 2 so designated on the Plat.

Section 2.16 Maintenance Fund. "Maintenance Fund" shall mean the fund created by assessments and fees levied pursuant to Article IV hereof to provide the Association with funds it requires to carry out its duties hereunder.

Section 2.17 Manager. "Manager" shall mean such person or entity retained by the Board to perform certain functions of the Association pursuant to this Declaration.

Section 2.18 Mortgage. "Mortgage" shall mean any mortgage, deed of trust, or other document pledging a Ranch Estate or interest therein as security for the payment of a debtor's obligation. "First Mortgage" means any mortgage which is not subjected to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

Section 2.19 Mortgagee. "Mortgagee" shall mean a beneficiary of a mortgage as well as a named Mortgagee. "First Mortgagee" means any person named as a Mortgagee under a mortgage, or any successor to the interest of any such person under a mortgage, which mortgage is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

Section 2.20 Owner. "Owner" shall mean the record owner, whether one or more persons or entities, of fee simple title to any Ranch Estate, but shall not mean or refer to any person or entity who holds such interest merely as security for the performance of a debt or other obligation, including a mortgage, unless and until such person or entity has acquired fee simple title pursuant to foreclosure proceedings.

Section 2.21 Plat. "Plat" shall mean any plat maps filed in the office of the Clerk and Recorder of Gunnison County, Colorado, as they may be amended from time to time, affecting the Property.

Section 2.22 Pond Tract. "Pond Tract" shall mean the Tract so designated on the Plat.

Section 2.23 Property. "Property" shall mean and include the Property.

Section 2.24 Ranch Estate. "Ranch Estate" shall mean the tracts so designated on the Plat.

Section 2.25 Stable Tract. "Stable Tract" shall mean the Tract so designated on the Plat.

### ARTICLE III

#### The Association

Section 3.1 Dedication of Tracts. The Caretaker Tract, Stable Tract, and Pond Tract as designated on the Plat will be dedicated and conveyed to the Association, and shall be used for the following purposes:

3.1.1 The Caretaker Tract shall be utilized as housing for employees of The Danni Ranch, for the storage of equipment and materials utilized for maintenance and repair of and snow removal from the private roads within The Danni Ranch, for the storage of equipment and materials utilized in the construction, maintenance, and repair of permitted Improvements upon the Caretaker Tract, Stable Tract, and Pond Tract, for the storage of equipment and materials required for the continued agricultural use of the Irrigated Lands as hereafter described, and generally as the administrative headquarters of The Danni Ranch.

3.1.2 The Stable Tract shall be utilized for a barn and corrals for horses for use by Owners and guests, but not the public at large.

3.1.3 The Pond Tract shall be utilized for water storage and augmentation pursuant to decree of the Division 4 Water Court in Case No. 90-CW-149 as The Danni Ranch Pond, and for recreational uses therein by the Owners, and their families, guests and invitees, but not the general public.

Any other provision of these Covenants notwithstanding, no permitted amendment of these covenants shall change or enlarge the foregoing uses without obtaining a Land Use Change Permit for such change of use under the Gunnison County Land Use Resolution.

Section 3.2 Skiing Easement. The Declarant hereby dedicates and conveys to the Association for the common use and enjoyment of the Owners, their families, guests and invitees an easement for recreational cross-country skiing purposes over those portions of Ranch Estates 1 and 2 set forth on the Plat as a "Skiing Easement". The Association shall have the right to adopt rules, regulations, and procedures for the maintenance and use thereof.

Section 3.3 Fishing Easement. The Declarant hereby dedicates and conveys to the Association for the common use and enjoyment of the Owners, their families, guests and invitees an easement for the purpose of fishing within the East River upon that portion of Ranch Estates 1 and 2 set forth on the Plat as a "Fishing Easement". Persons may not fish on any portion of the Fishing Easement that is within 25 feet of the primary residence on any Ranch Estate, but they may travel over such portion to have access to the remainder of the Fishing Easement. The Association shall have the right to adopt rules, regulations, and procedures for the maintenance and use thereof.

Section 3.4 Irrigated Lands. The Declarant hereby dedicates and conveys to the Association an easement for the Association's continued irrigation of, and the cutting, raking, and baling of hay upon, the irrigated lands upon portions of Ranch Estates 1 and 2 set forth on the Plat as the "Irrigated Lands". The Declarant further dedicates and conveys to the Association the water rights described in Exhibit B attached hereto, which the Association shall utilize for such continued irrigation, in order that the Irrigated Lands could be preserved in their existing agricultural usage in perpetuity; provided, however, that the Declarant reserves 1.0 c.f.s. of water from Happy Hollow Highline Ditch, Ditch No. 183, from Priority No. 362, to convey to purchasers of the following Ranch Estates: 0.2 c.f.s. for Ranch Estate 3; 0.2 c.f.s. for Ranch Estate 4; 0.4 c.f.s. for Ranch Estate 5; and 0.2 c.f.s. for Ranch Estate 6. The Association shall be deemed to indemnify the Owners of Ranch Estates 1 and 2 from any loss, liability, or damage accruing to or asserted against the Owners of said Ranch Estates 1 and 2 resulting from such continued agricultural operations upon the Irrigated Lands, which

agricultural operations shall be covered by the insurance policies to be obtained by the Association pursuant to Article X hereof.

The Association shall have the right to lease the Irrigated Lands to third parties for the irrigation, cutting, raking, and bailing of hay as set forth above, utilizing the appurtenant water rights described in Exhibit B attached hereto, and for the grazing of cattle or horses upon the Irrigated Lands. In the event of any such lease, any lease proceeds shall be split among the Association and the Owners of Ranch Estates 1 and 2, one-third to each.

Section 3.5 Membership. Every Owner or its delegate shall be a member of the Association. No Owner, whether one or more persons, shall have more than one membership per Ranch Estate owned, but all the persons owning each Ranch Estate shall be entitled to rights of membership and of the use and enjoyment of appurtenances to ownership of a Ranch Estate.

Section 3.6 Compliance with Documents. Each Owner shall abide by and benefit from the provisions, covenants, conditions, and restrictions contained in The Danni Ranch Association Documents.

Section 3.7 Rules and Regulations. The Association, from time to time, may adopt, amend and repeal rules and regulations, to be known as the "The Danni Ranch Rules", governing, among other things and without limitation:

3.7.1 The use of the Caretaker Tract, Stable Tract, and Pond Tract, the Skiing Easement, and the Fishing Easement;

3.7.2 The use of roads;

3.7.3 Collection and disposal of garbage and trash;

3.7.4 The burning of open fires;

3.7.5 The maintenance of animals within The Danni Ranch;

3.7.6 Parking restrictions and limitations;

3.7.7 The posting of maximum speeds for vehicular traffic and other traffic rules;

3.7.8 Establishment of times or other restrictions when commercial vehicles may be permitted to use any or all of the roads;

3.7.9 The type or types of vehicles (other than conventionally equipped passenger automobiles) and the times when any vehicle or motorized vehicle or device may be permitted to use the roads or any other area of The Danni Ranch; and

3.7.10 A schedule of fines for the infraction of The Danni Ranch Rules.

A then-current copy of The Danni Ranch Rules shall be distributed to the Owners.

Section 3.8 Assist Design Review Board. The Association shall in all respects cooperate with and assist the Design Review Board in the complete attainment of the Design Review Board's enforcement of its guidelines, rules, regulations and decisions.

Section 3.9 Manager. The Association may employ or contract for the services of a Manager, provided that no such employment shall be by a contract having a term of more than three years, and each such contract shall be subject to cancellation by the Association on thirty days prior notice without cause and without payment of a termination fee. The Manager shall not have the authority to make expenditures for additions or improvements chargeable against the Maintenance Fund except upon specific prior approval and direction by the Board. The Board shall not be liable for any omission or improper exercise by a Manager of any such duty, power, or function so delegated by written instrument executed by or on behalf of the Board.

Section 3.10 Ownership of Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within The Danni Ranch conveyed to the Association.

Section 3.11 Roads. The Association shall be responsible for the maintenance of all private roads within The Danni Ranch, including periodic maintenance of the surface and regular snow and debris removal, except such private drives as are located on Ranch Estates. The Board shall cooperate with the applicable traffic and fire control officials to post all public and private drives, roads and streets with traffic control, fire lane, and parking regulations signs.

Section 3.12 Communications Center. The Association may provide for The Danni Ranch Communications Center ("Communications Center") to be located on the Caretaker Tract which shall provide security for The Danni Ranch, as well as a system connected to each residential dwelling unit which enables the Communications Center to alert the Owner and appropriate officials in the event of fire, lack of heat, or unlawful intrusion in any residential dwelling unit on the Property. It is suggested that residences be wired at the time of initial construction to accommodate such system if thereafter installed by the Association.

Section 3.13 Books and Records. The Association shall make available for inspection, upon request, during normal business hours or under other reasonable circumstances, to Owners and Mortgagees, current copies of The Danni Ranch Association Documents, and the books, records, and financial statements of the Association prepared pursuant to the Bylaws. The Association may charge a reasonable fee for copying such materials.

Section 3.14 Implied Rights and Obligations. The Association may exercise any other right or privilege given to it and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. The Association shall perform all of the duties and obligations imposed on it or reasonably necessary to perform the duties and obligations contained in The Danni Ranch Association Documents.

## ARTICLE IV

### COVENANT FOR MAINTENANCE ASSESSMENTS

#### Section 4.1 Creation of the Lien and Personal Obligation for Assessments.

Each Owner of any Ranch Estate, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed, is deemed to covenant and agree to pay to the Association: (1) Annual Assessments or charges as provided herein for the purpose of funding the Maintenance Fund; and (2) Special Assessments for capital improvements and other purposes as stated herein, such Annual and Special Assessments to be fixed, established, and collected from time to time as hereinafter provided; and (3) Default Assessments which may be assessed against an Owner's Ranch Estate pursuant to The Danni Ranch Association Documents for failure to perform an obligation under The Danni Ranch Association Documents or because the Association has incurred an expense on behalf of the Owner under The Danni Ranch Association Documents. The Annual, Special, and Default Assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Ranch Estate against which each such Assessment is made until paid. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Ranch Estate at the time when the Assessment fell due.

#### Section 4.2 Purpose of Assessments.

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of The Danni Ranch including without limitation maintenance, repair, and snow removal from all roads within the Property (except Ranch Estate driveways), maintenance, repair and improvement of the Caretaker, Stable, and Pond Tracts, the Skiing Easement, and the Fishing Easement, and for the agricultural usage of the Irrigated Lands including, but not limited to, the payment of insurance thereon, and repair, replacement, and additions thereto, reserve accounts, the cost of labor, equipment, materials, management, and supervision, and the salary or fee of the Manager.

#### Section 4.3 Calculation and Apportionment of Annual Assessment.

The Board shall prepare a budget prior to the beginning of each fiscal year estimating its net cash flow requirements for the next year and an estimate of the Assessments to be charged each Owner and distribute them to the Owners. On or before November 30th of each year, the Board shall approve the budget in final form, and shall determine, levy, and assess the Association's Annual Assessments for the following year. Each budget shall include funds for establishing and maintaining reserves for periodic repairs, replacement, and maintenance of those improvements which must be replaced on a periodic basis, and for taxes, capital improvements, deficiencies from the prior year's Maintenance Fund, and other purposes and shall include any expected income and surpluses from the prior year's Maintenance Fund.

#### Section 4.4 Special Assessments.

In addition to the Annual Assessments authorized by Section 4.1 hereof, the Board of Directors of the Association may levy in any Assessment Year one or more Special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement, including the necessary fixtures and personal property related thereto, or to make up any shortfall in the current year's budget. Notice of the amount and due dates for such Special Assessments must be sent to each Owner at least thirty days prior to the due date.

Prior to the board of directors levying a special assessment that exceeds \$20,000.00 in an aggregate amount, the special assessment shall be submitted to and approved by an affirmative vote of the members at either a regular meeting of the members or a special meeting of the members called for such purpose. If Henry A. Gallin (or his successor as developer of The Danni Ranch) has not yet transferred ten Ranch Estates to third party purchasers, the special assessment must be approved by a majority of the members other than Henry A. Gallin (or his successor as developer of The Danni Ranch).

Section 4.5 Uniform Rate of Assessment. Both Annual and Special Assessments shall be fixed at a uniform rate for each Ranch Estate, except that the Annual Assessments and any Special Assessments upon Ranch Estate 6, for so long as the same is owned by Robert R. Stuplich, shall be only in such amount which reflects the proportionate share of the cost of maintenance, repair, and snowplowing of that portion of the road system leading from Colorado Highway 135 to Ranch Estate 6, unless Robert R. Stuplich elects in writing to utilize the Stable or Pond Tracts, in which event the Annual Assessments and Special Assessments upon Ranch Estate 6 shall be the same as all other Ranch Estates in perpetuity.

Section 4.6 Date of Commencement of Annual Assessments. The Annual Assessments provided for herein shall commence as to all Ranch Estates on the first day of the month following the conveyance of the first Ranch Estate to an Owner. The first Annual Assessment for each Ranch Estate shall be prorated according to the number of months remaining in the calendar year and due on the first day of the month following conveyance. Assessments shall be collected on an annual basis due and payable on January 1st of each year.

Section 4.7 Default Assessments. All monetary fines assessed against an Owner pursuant to The Danni Ranch Association Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to The Danni Ranch Association Documents, shall be a Default Assessment and shall become a lien against such Owner's Ranch Estate which may be foreclosed or otherwise collected as provided herein. Notice of the amount and due date of such Default Assessments shall be sent to the Owners subject to such Assessment at least thirty days prior to their due date.

Section 4.8 Effect of Nonpayment of Assessments; Lien; Remedies of Association. Any assessment installment, whether an Annual, Special, or Default Assessment, which is not paid within thirty days of its due date shall be delinquent. In the event that an Assessment installment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

4.8.1 Assess a late charge of at least One Hundred Dollars per delinquency.

4.8.2 Assess an interest charge from the date of delinquency at the rate per annum of two points above the prime rate charged by the Association's bank, or such other rate as shall have been established by the Board of Directors.

4.8.3 Suspend the voting rights of the Owner during any period of delinquency.



4.8.4 Bring an action at law against any Owner personally obligated to pay the delinquent installments.

4.8.5 Foreclose on the Ranch Estate as set forth in more detail below. The Association may proceed to foreclose its lien for assessments and any other amounts permitted by law in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Colorado. Such lien shall be in favor of the Association and shall be for the benefit of all other Owners. In either a personal or foreclosure action, the Association shall be entitled to recover as a part of the action. All interest, costs, attorneys' fees and other fees, charges and amounts permitted by law. No Owner may waive or otherwise escape liability for the Assessments provided for herein by nonuse of the Stable Tract, Pond Tract, Skiing Easement, or the Fishing Easement, or abandonment of his Ranch Estate. The remedies herein provided shall not be exclusive and the Association may enforce any other remedies to collect delinquent Assessments as may be provided by law.

Section 4.9 Successor's Liability for Assessment. In addition to the personal obligation of each Owner of a Ranch Estate to pay all Assessments thereon and the Association's perpetual lien on a Ranch Estate for such Assessments, all successors to the fee simple title of a Ranch Estate, except as provided in Section 4.10 hereof, shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees against such Ranch Estate, without prejudice to any such successor's right to recover from any prior owner any amounts paid thereon by such successor. This liability of a successor shall not be personal and shall terminate upon termination of such successor's fee simple interest in the Ranch Estate. In addition, such successor shall be entitled to rely on the statement of liens shown on any certificate issued by or on behalf of the Association under Section 4.13 hereof.

Section 4.10 Subordination of the Lien. The lien for Assessments provided for herein shall be subordinate to (i) liens for real estate taxes and other governmental assessments, and (ii) the lien of any First Mortgage of record before the date on which the Assessment became delinquent, except as otherwise provided by Section 38-33.3-316(2)(b), Colorado Revised Statutes. The lien of the Assessment shall be superior to and prior to any homestead exemption now or hereafter provided by the laws of the State of Colorado. No sale or transfer shall relieve a Ranch Estate from liability for any Assessments or from the lien thereof. In the event there is a lien or assessment outstanding on a Ranch Estate at the time of a sale or transfer of a Ranch Estate pursuant to a decree of foreclosure or by a public trustee's foreclosure, or any other proceeding or deed in lieu of foreclosure, for the purpose of enforcing a First Mortgage, the outstanding debt shall be the responsibility of the purchaser or transferee of said Ranch Estate, payable immediately upon the purchase or transfer, as well as any and all assessments on the Ranch Estate made or accruing thereafter.

Section 4.11 Notice of Action. Any First Mortgagee who makes a prior written request to the Secretary of the Association and furnishes its name and address and the legal description of the Ranch Estate in which it has an interest to the Secretary shall be entitled to timely written notice of any delinquency in payment of an Annual, Special, or Default Assessment owed by the Owner of the Ranch Estate encumbered by its First Mortgage or of any other default by the Owner. In addition, any such first Mortgagee shall be entitled to cure such delinquency and obtain the release of the Ranch Estate encumbered by its First Mortgage from any lien imposed or perfected by reason of such delinquency.

Section 4.12 Exempt Property. The following portions of the Property shall be exempt from the Assessments, charges, and liens created herein:

- 4.12.1 All utility lines and easements;
- 4.12.2 The Caretaker Track, Pond Tract, and Stable Tract.
- 4.12.3 All roads within the Property, except Ranch Estate driveways.

Section 4.13 Statement of Status of Assessments. Upon fourteen days' written notice to the Treasurer of the Association or the Manager and payment of a reasonable fee set by the Association from time to time, any Owner, prospective purchaser, or Mortgagee of a Ranch Estate shall be furnished a statement of the account for such Ranch Estate setting forth:

- 4.13.1 The amount of any unpaid Assessments (whether Annual, Special, or Default Assessments), interest, late charges, costs, expenses, and attorneys' fees then existing against a particular Ranch Estate.
- 4.13.2 The amount of the current Annual Assessment and the date through which they are paid.
- 4.13.3 Any other information deemed proper by the Association.

The information contained in such statement, when signed by the Treasurer or Manager, shall be conclusive upon the Association as to the person or persons to whom such statement is issued and who rely on it in good faith.

Section 4.14 Failure to Assess. The omission or failure of the Board to fix the Assessment amounts or rates or to deliver or mail to each Owner an Assessment Notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay Assessments. In such event, each Owner shall continue to pay Annual Assessments on the same basis as for the last year for which an Assessment was made until a new Assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

## ARTICLE V

### PROPERTY RIGHTS OF OWNERS

Section 5.1 Owners: Easements of Enjoyment. Every Owner shall have a nonexclusive easement for the use and enjoyment of the roads (except driveways), Stable Tract, Pond Tract, Skiing Easement, and Fishing Easement, which shall be appurtenant to and shall pass with the title to every Ranch Estate, subject to the easements set forth in this Article.

Section 5.2 Delegation of Use. Any Owner may delegate, in accordance with The Danni Ranch Association Documents, his right of enjoyment in the roads (except driveways), Stable Tract, Pond Tract, Skiing Easement, and Fishing Easement to his tenants, family, resident guests or invitees in company with such Owner.

Section 5.3 Recorded Easements. The Property, and all portions thereof, shall be subject to all easements shown on the recorded Plat affecting the Property, or any portion thereof, and to any other easements of record or of use as of the date of recordation hereof.

Section 5.4 Easements for Encroachments. The Property, and all portions thereof, shall be subject to an easement of up to three feet from the Ranch Estate lines for the actual extent of encroachments created by construction as designed or constructed by the Association or any Owner and for settling, shifting, and movement of any portion of the Property, except that no such easement is created for an encroachment which is the result of willful conduct on the part of the Association, an Owner, a tenant, or any other person or entity. A valid easement for said encroachments and for the maintenance thereof shall exist. Such encroachments shall not be considered to be encumbrances upon any part of the Project. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of Improvements constructed on any Ranch Estate, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of any Improvements on the Property.

Section 5.5 Utility Easements. There is hereby created a general easement upon, across, over, in, and under the Property for ingress and egress and for installation, replacement, repair, and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electrical, cable television, and a master communications system, regardless of whether the same are available on the date hereof. By virtue of this easement, it shall be expressly permissible and proper for the companies providing electrical and telephone services to install and maintain necessary equipment on the Property and to affix and maintain electrical, communications, and telephone wires, circuits, and conduits underground within the Property; provided, that no utility lines shall be installed upon, over, or across the Building Site of a Ranch Estate without the written consent of the Owner of such Ranch Estate. No water, sewer, gas, telephone, electrical, or communications lines, systems, or facilities may be installed or relocated on the surface of the Property unless approved by the Design Review Board. Such utilities temporarily may be installed above ground during construction, if approved by the Association or the Design Review Board as stated above. Any utility company using the general easement created herein shall use its best efforts to install and maintain the utilities provided for herein without disturbing the uses of the Owners and the Association; shall prosecute its installation and maintenance activities as promptly and expeditiously as reasonably possible; and shall restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by the general easement herein created request a specific easement by separate recordable document, the Association shall have, and is hereby given, the right and authority to grant such easement upon, across, over, or under any part or all of the Property without conflicting with the terms hereof. The easements provided for in this Section shall in no way affect, avoid, extinguish, or modify any other recorded easement on the Property.

Section 5.6 Reservation of Easements, Exceptions, and Exclusions. The Association reserves to itself the concurrent right to establish from time to time, by declaration or otherwise, utility and other easements, permits, or licenses over the Caretaker, Stable, and Pond Tracts, for purposes including but not limited to streets, paths, walkways, drainage, irrigation, parking areas, conservation areas, and to create other reservations, exceptions, and exclusions consistent with the ownership of The Danni Ranch for the best interest of all the Owners and the Association, in order to serve all the Owners within The Danni Ranch. The Association further reserves the right to establish from time to time, by

dedication or otherwise, utility and other easements, and to create other reservations, exceptions, and exclusions convenient or necessary for the use and operation of any other property of the Association, as long as it does not hamper the enjoyment of The Danni Ranch by the Owners.

Section 5.7 Emergency Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon all roads and upon the Property in the proper performance of their duties.

Section 5.8 Maintenance Easement. An easement is hereby reserved to the Association, and any Director or Manager, and their respective officers, agents, employees, and assigns upon, across, over, in, and under the Ranch Estates and a right to make such use of the Ranch Estates as may be necessary or appropriate to make such use of the Ranch Estates as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Association is obligated or permitted to perform, including the right to enter upon any Ranch Estate for the purpose of performing maintenance to the landscaping or the exterior of improvements to such Ranch Estate, or for snow control.

Section 5.9 Drainage Easement. An easement is hereby reserved to the Association, its officers, agents, employees, successors, and assigns to enter upon, across, over, in, and under any portion of the Property for the purpose of changing, correcting, or otherwise modifying the grade or drainage channels of the Property so as to improve the drainage of water on the Property. Best efforts shall be made to use this easement so as not to disturb the uses of the Owners, the Association, and as applicable, as little as possible, to prosecute such drainage work promptly and expeditiously, and to restore any areas affected by such work to a sightly and usable condition as soon as reasonably possible following such work. The Association, or its officers, agents, employees, successors and assigns must inform and obtain the approval of the Board of Directors prior to undertaking such drainage work, which approval shall not be unreasonably withheld.

Section 5.10 Irrigation Easement. An easement is hereby granted to the Association to enter upon, across, over, in, and under any portion of the Property for the purpose of maintaining, repairing, or cleaning those irrigation ditches through the Property or serving the Irrigated Lands, as well as the right to maintain said irrigation ditches within the easements.

Section 5.11 Declarant's Rights Incident to Construction. Declarant, for himself and his successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under, and across the Caretaker Tract and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the initial Improvements on the Ranch Estates or the Property; provided, however, that no such rights shall be exercised by the Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment, or access to its Ranch Estate by any Owner or such Owner's family, tenants, guests, or invitees.

Section 5.12 Septic Tanks and Absorption Fields. Individual septic tanks and absorption fields will be located on each Ranch Estate, as well as a pump or other mechanism as may be required to supply water regarding same. The septic tanks and absorption fields will be located over one hundred fifty feet from the East River.

Section 5.13 Easements Deemed Created. All conveyances of Ranch Estates hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article V, even though no specific reference to such easements or to this Article V appears in the instrument for such conveyance.

Section 5.14 Partition or Combination of Ranch Estates. No part of a Ranch Estate may be partitioned or separated from any other part thereof except as provided herein. Whether partitioned, combined, or unchanged, each Ranch Estate shall be conveyed, transferred, gifted, devised, bequeathed, encumbered, or otherwise disposed of, as the case may be, with all appurtenant rights and interests created by law or by this Declaration, including the Owner's membership in the Association, and liability for Assessments as established by the Board being made as applicable. Two or more Ranch Estates may be combined into one Ranch Estate only with the written consent of the Association which consent shall be conditioned upon payment by the Owner or Owners concerned of all expenses thereof, including legal and accounting fees. Any recorded instrument for a combination of Ranch Estates shall make adequate provision for the adjustment of voting rights and liability for payment of Assessments appurtenant to or imposed on such Ranch Estates, which shall be not less than under these Covenants and the original Plat.

Common boundaries between Ranch Estates may be adjusted only if the same does not result in any Ranch Estate being less than 35 acres in size, and only with the written consent of the Association, which consent shall be conditioned upon payment by the Owners concerned of all expenses thereof, including legal, accounting, and surveyor fees.

## ARTICLE VI

### DESIGN REVIEW BOARD

Section 6.1 Membership. There is hereby established a Design Review Board which shall be responsible for the establishment and administration of Design Guidelines to carry out the purposes and intent of this Declaration. The Design Review Board shall be composed of no less than three nor more than five persons, who need not be Members of the Association. All of the members of the Design Review Board shall be appointed, removed, and replaced by the Board of Directors.

Section 6.2 Purpose. The Design Review Board shall review, study and either approve or reject proposed Improvements on the Property, all in compliance with this Declaration and as further set forth in the rules and regulations of the Design Review Board and The Danni Ranch Association Design Guidelines as may be adopted and established from time to time by the Design Review Board, and in accordance with the following general guidelines:

6.2.1 The Design Review Board shall exercise its best judgment to see that all Improvements conform and harmonize with any existing structures as to external design, quality and type of construction, materials, color, location on the Building Site, height, grade and finished ground elevation, and all aesthetic considerations herein set forth.

6.2.2 No Improvement on the Property shall be erected, placed or altered on any Ranch Estate Building Site, nor shall any construction be commenced thereon until plans for such Improvement shall have been approved by the Design

Review Board, provided, however, that improvements and alterations which are completely within a Building may be undertaken without such approval.

6.2.3 The actions of the Design Review Board in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties.

Section 6.3 Organization and Operation of the Design Review Board.

6.3.1 Term. The term of office of each member of the Design Review Board, subject to Section 6.1, shall be one year, commencing January 1 of each year, and continuing until his successor shall have been appointed. Should a member die, retire, become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed as provided in said Section 6.1.

6.3.2 Operations. The chairman shall take charge of and conduct all meetings and shall provide for reasonable notice to each member of the Design Review Board prior to any meeting. Such notice shall set forth the time and place of said meeting, which notice may be waived by any member. In the absence of a chairman, the parties appointing or electing the chairman may appoint or elect a successor, or if the absence is temporary, a temporary successor.

6.3.3 Voting. The affirmative vote of a majority of the members of the Design Review Board shall govern its actions and be the act of the Design Review Board. A quorum shall consist of a majority of the members.

6.3.4 Expert Consultation. The Design Review Board may avail itself of reasonable technical and professional advice and consultants as it deems appropriate, which shall be at the Owner's expense.

6.3.5 Expenses. The Design Review board shall have the right to charge a fee for each application submitted to it for review, in an amount which may be established by the Design Review Board from time to time, and such fees shall be collected by the Design Review Board and remitted to the Association to help defray the expenses of the Design Review Board's review of submittals hereunder. The amount of such fee shall not exceed \$.15 per square foot of covered improvements, including livable space, garages and barns, but excluding uncovered decks and patios.

Section 6.4 Design Guidelines and Rules. The Design Review Board shall adopt, establish and publish, from time to time, Design Guidelines, which shall be a Danni Ranch Association Document. Said Design Guidelines shall not be inconsistent with these Covenants but shall more specifically define and describe the design standards for the various uses within The Danni Ranch. The Design Guidelines may be modified or amended from time to time by the Design Review Board. All prospective Owners and builders are advised to contact the Design Review Board to obtain the most current copy of the Design Guidelines.

Section 6.5 Procedures. The Design Review Board shall make such rules and regulations as it may deem appropriate to govern its proceedings. Except to the extent modified or amplified in the Design Guidelines, the following general procedures shall apply:

6.5.1 Pre-Design Conference. Project developers, Owners, architects and others desiring to construct any Improvements on the Property (including a prospective purchaser of a Ranch Estate) are required to meet with the Design Review Board in the Pre-Design Meeting, while plans are tentative and preliminary, in order to assure full understanding of the requirements of The Danni Ranch Association Documents. A person desiring to construct Improvements on a Ranch Estate who is not the owner thereof shall obtain the consent of the owner of such Ranch Estate before meeting with the Design Review Board.

6.5.2 Sketch Plan. A sketch plan satisfying the Design Review Board's requirements shall be submitted to the Design Review Board in order to obtain approval of the initial design following the pre-design conference, and shall be reviewed by the Design Review Board within fourteen days after submission. The Design Review Board may approve, reject, or approve with conditions the sketch plan, and such approval and compliance with any conditions imposed shall be a precondition to the final submittal.

6.5.3 Final Submittal. Final plans, specifications, and working drawings, in such form and containing such information as may be required by the Design Review Board, shall be submitted in writing to the Design Review Board shall respond with its approval, approval with conditions, or disapproval with fifteen days after receipt of all information required for the final submittal.

6.5.4 Building Permit. Compliance with The Danni Ranch Association design review process is not a substitute for compliance with Gunnison County building regulations and each Owner is responsible for obtaining all approvals, licenses and permits as may be required thereunder prior to construction commencement.

6.5.5 Construction Commencement. Except as provided in Paragraph 6.5.2 above, no construction shall commence on any Ranch Estates or Building Site or any other part of the Property until the provisions of this Paragraph 6.5.5 have been complied with to the satisfaction of the Design Review Board or waived in writing by the Design Review Board.

6.5.6 Project Completion Review. Within ten days after the Gunnison County occupancy permit inspection, each Owner shall request a project completion review from the Design Review Board to ensure that the final building form is consistent and in accordance with the plans and specifications approved in the final submittal. The Design Review Board shall inspect the improvements and give its approval or disapproval within seven days after receipt of the application. Design Review Board approval on the project completion review is required to show compliance of the improvements with The Danni Ranch Association design review process.

6.5.7 Modified Submission Requirements. The Design Review Board, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and any permit compliance with different or alternative requirements.

Section 6.6 Design Criteria. Emphasis on the design of The Danni Ranch as a total integrated complex is encouraged. Within each Building or other Improvement, design expressions in terms of massing, scale, color and circulation shall relate to adjacent

improvements and to the total development. Orientation of uses shall acknowledge basic site conditions and adjoining building uses.

6.6.1 Site Design. Site planning shall respect the relationship to existing Improvements and roads. Natural topography shall be maintained wherever possible and Improvements shall be designed to conform and compliment existing topography.

6.6.2 Building Groups. When multiple structures are planned as part of a single design project, they shall be designed in a unified architectural and spatial manner.

6.6.3 Access. Vehicular access to each Building Site shall be carefully designed in relationship to vertical and horizontal curves, site distances, road cuts, and similar considerations.

6.6.4 Vehicular Storage. Vehicular storage and parking shall be screened from view to the extent possible by architectural or landscape design.

6.6.5 Landscaping. Landscaping shall be designed to unify the Building and its Ranch Estate and existing adjacent Improvements.

6.6.6 Building Codes. Any Improvements to be located on the Property, the plans for which are required to be approved by the Design Review Board, shall be of an appropriate type of construction or installation as defined in applicable codes, ordinances, rules and regulations and shall comply with such codes, ordinances, rules and regulations.

6.6.7 Mechanical Equipment. Installation of all mechanical equipment shall be subject to approval by the Design Review Board. Solar energy collectors or panels may be installed as approved by the Design Review Board.

Section 6.7 Limitation of Liability. The Design Review Board shall use reasonable judgment in accepting or disapproving all plans and specifications submitted to it. Neither the Design Review Board, nor any individual member thereof, shall be liable to any person for any official act of the Design Review Board in connection with submitted plans and specifications, except to the extent the Design Review Board or any individual member thereof acted with malice or wrongful intent. Notwithstanding that the Design Review Board has approved plans and specifications, neither the Design Review Board nor any of its members shall be responsible or liable to any Owner, developer or contractor with respect to any loss, liability, claim, or expense which may arise by reasons of such approval or to the construction of the Improvements. Neither the Board, the Design Review Board or any agent thereof, nor Declarant or any of his employees, agents, or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of The Danni Ranch Association Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the Design Review Board shall be defended and indemnified by the Association in any such suit or proceeding. The Association, however, shall not be obligated to indemnify each member of the Design Review Board to the extent any such member of the Design Review Board shall be adjudged to be liable for negligence or misconduct in the performance of his duty as a member of the Design Review Board unless and only to the extent that the Court in which



such action or suit may be brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expense as such court shall deem proper.

Section 6.8 Certificate of Compliance. Upon payment of a reasonable fee established from time to time by the Design Review Board, and upon written request of any Owner or his agent, an existing or prospective Mortgagee or a prospective purchaser, the Design Review Board shall issue an acknowledged certificate, in recordable form, setting forth generally whether or not, to the best of the Design Review Board's knowledge, said Owner is in violation of any of the terms and conditions of The Danni Ranch Association Documents. Unless such request shall be complied with within thirty days after receipt thereof, it shall be conclusively presumed that the Owner and the affected Ranch Estate is in conformance with all the terms and conditions subject to the control of the Design Review Board.

## ARTICLE VII

### CONSTRUCTION AND ALTERATION OF IMPROVEMENTS

Section 7.1 General. The right of an Owner, developer, or other entity to construct, reconstruct, refinish, alter or maintain any Improvement upon, under or above any of the Property (except as provided in Section 6.2.2) or to make or create any excavation or fill thereon, or to make any change in the natural or existing surface contour or drainage thereof, or install any utility line or conduit thereon or thereover, shall be subject to the Design Guidelines and to the general restrictions set forth herein.

Section 7.2 Approval Required. Except to the extent permitted in Section 6.2.2, any construction or reconstruction, or the refinishing or alteration of any part of the exterior of any Building or other Improvement on the Property is absolutely prohibited until and unless the Owner or developer first obtains approval thereof from the Design Review Board and otherwise complies with the provisions hereof. All Improvements shall be constructed only in accordance with approved plans.

Section 7.3 Deemed Nuisances. Every violation of these Covenants or any part hereof is declared to be and to constitute a nuisance, and every public or private remedy allowed therefore by law or equity against an Owner or offender shall be applicable against every such violation. These Covenants may be enforced as hereinafter provided.

Section 7.4 Removal of Nonconforming Improvements. The Association, upon request of the Design Review Board and after reasonable notice to the offender and to the Owner, may remove any Improvements constructed, reconstructed, refinished, altered, or maintained in violation of these Covenants, and the Owner thereof shall forthwith reimburse the Association for all expenses incurred in connection therewith.

Section 7.5 Construction Methods. Specific rules regarding construction methods including, but not limited to, excavation, drainage, utility lines, loading areas, waste storage, trash removal, materials storage, and transformers and meters shall be set forth in the Design Guidelines and all Owners shall comply therewith.

ARTICLE VIII

PROPERTY USE RESTRICTIONS

Section 8.1 General Restriction. The Property shall be used only for the purposes set forth herein, as permitted by the applicable ordinances of Gunnison County, Colorado, and the laws of the State of Colorado and the United States, and as set forth in The Danni Ranch Association Documents, amendments, or specific recorded covenants affecting all or any part of the Property.

Section 8.2 Building Sites. All development activities on Ranch Estates, including the construction of any Improvements, shall be within the designated building sites as described on the Plat (hereinafter referred to as "Building Sites") except as may otherwise be provided by these Covenants or the Design Guidelines. The well and sewage disposal system serving an individual Ranch Estate may be installed outside the Building Site.

Section 8.3 Ranch Estate Use. Each Ranch Estate shall be restricted to residential use and no commercial enterprises or uses shall be permitted. Residential use shall be further restricted within each Ranch Estate to occupation and use by one family.

Section 8.4 Residences. Only one primary residence may be constructed on any Ranch Estate, together with one guest house. A guest house may be constructed and occupied prior to completion of construction and commencement of occupancy of the primary residence. Such guest house shall at all times be owned by the Owner of the primary residence and the Ranch Estate upon which it is situate and neither the guest house nor the primary residence shall be commercially rented or leased separate and apart from a rental or lease of the entire Ranch Estate.

The Gunnison County Land Use Resolution requires a Land Use Permit to construct a second residence (whether a primary residence or a guest house) upon any Ranch Estate.

Section 8.5 Garages. Each primary residence shall include an attached garage having space for not less than two vehicles. Each guest house shall have an attached garage having space for not less than one vehicle.

Section 8.6 Building Size. Primary residences shall have a gross residential floor area of not less than two thousand two hundred square feet, and guest houses of not less than eight hundred square feet nor in excess of one thousand eight hundred square feet. For the purposes hereof, "gross residential floor area" shall be defined as the floor area within the structure on all levels, except unfinished basements, attics, garages, decks, balconies, patios, and breezeways.

Section 8.7 Building Height. No building may exceed forty feet in height from the ground measured at the ground's highest elevation along the foundation; provided however, that the Design Review Board may require a lower maximum height if necessary to preserve the view from another Ranch Estate or Ranch Estates.

Section 8.8 Mobile Homes. No mobile homes, trailers, double-wide trailers, or pre-fabricated homes shall be permitted within the property whether affixed to the land or on a temporary basis.

Section 8.9 Motorized Vehicles. No trucks, trail bikes, recreational vehicles, motor homes, motor coaches, snowmobiles, campers, trailers, boats or boat trailers, or similar vehicles other than passenger automobiles shall be parked or in any manner kept or placed on any Ranch Estate or road therein except in an enclosed garage. This restriction, however, shall not be deemed to prohibit commercial and construction vehicles, in the ordinary course of business, from making deliveries or otherwise providing service to the property or for the initial construction by Declarant or other Owners.

Section 8.10 Excavation. No excavation shall be made except in connection with Improvements approved as herein provided. For purposes of this section, "excavation" shall mean any disturbance of the surface of the land (except to the extent reasonably necessary for approved landscape planting) which results in a removal of earth, rock, or other substance a depth of more than 18 inches below the natural surface of the land.

Section 8.11 Electrical and Telephone Service. All electrical and telephone service to Ranch Estates shall be placed underground.

Section 8.12 Wells. No well for the production of or from which there is produced oil or gas shall be dug nor storage tanks or reservoirs, nor any installation of power, telephone, or other utility lines (wire, pipe, or conduit) shall be made or operated anywhere on the Property except water wells and works providing domestic water to each Ranch Estate constructed, maintained, and repaired by the Ranch Estate owner; provided, however, that the foregoing shall not prevent the drilling of or installation of additional water wells by the Association or its assigns.

Section 8.13 Signs. No signs of any kind shall be displayed to the public view on or from any portion of the Property except those signs approved by the Design Review Board, or signs of the Association or its affiliates or assigns, or except as may be required by law.

Section 8.14 Animals and Pets. Animals, including household pets, livestock, and poultry, may be kept upon the Property, subject to the following provisions:

8.14.1 The kind and number of such animals may be regulated, permitted or prohibited from time to time by the Association.

8.14.2 Animals must be contained upon an Owner's Ranch Estate and may not be permitted to run at large at any time. Approved fencing is required to assure that animals do not stray from the Owner's property. In lieu of fencing the Ranch Estate and as the Design Review Board may approve, Owners may construct a fenced run on the Ranch Estate.

8.14.3 Pedestrians within the Property who are accompanied by dogs must have said dogs under the pedestrians' direct control. In no event may dogs be permitted to run at large. In the event a dog is not kept under control the Owner of said dog shall be fined Fifty Dollars by the Association.

Section 8.15 Drainage and Irrigation. No Owner shall do or permit any work, construct any Improvements, place any landscaping, or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern or irrigation ditches on the Property except to the extent such alteration in a drainage pattern or irrigation ditch is approved in writing by the Board, and except for the rights reserved to the Association to alter or change drainage patterns or irrigation ditches.

Section 8.16 Trash. No trash, ashes, garbage or other refuse shall be thrown or dumped on any land or area within the Property. There shall be no burning or other disposal of refuse out of doors. Each Owner shall provide suitable receptacles for the temporary storage and collection of such refuse and all such receptacles shall be screened from the public view and from the wind and protected from animal and other disturbance.

Section 8.17 Construction Regulations of the Design Guidelines. All Owners and contractors shall comply with the construction regulation portions of the Design Guidelines. Such regulations may affect, without limitation, the following: trash and debris removal; sanitary facilities; parking areas; outside storage; restoration of damaged property; conduct and behavior of builders, subcontractors, and Owners' representatives on the Property at any time; the conservation of landscape materials; and fire protection.

Section 8.18 Blasting. If any blasting is to occur, the Design Review Board and the Association shall be informed far enough in advance to allow them to make such investigation as they deem appropriate to confirm that appropriate protective measures have been taken prior to the blasting. Notwithstanding the foregoing, no approval of any blasting by the Association or the Design Review Board shall in any way release the person conducting the blasting from all liability in connection therewith, nor shall such approval in any way be deemed to make the Association or the Design Review Board liable for any damage which may occur from said blasting, and the person doing said blasting shall defend and hereby indemnifies said Association and Design Review Board from any such expense or liability. The Association or Design Review Board may impose any reasonable restrictions including time, day and date restrictions, and bonding, on all blasting.

Section 8.19 Temporary Structures. No temporary structures shall be permitted except as may be determined to be necessary during construction and as specifically authorized by the Design Review Board.

Section 8.20 Compliance with Laws. Subject to the rights of reasonable contest, each Member shall promptly comply with the provisions of all applicable laws, regulations, ordinances, and other governmental or quasi-governmental regulations with respect to all or any portion of the Property.

Section 8.21 No Outside Clotheslines. No laundry or wash shall be dried or hung outside any Building.

Section 8.22 Parking and Auto Repair. No automobiles or other vehicles shall be parked on any road or upon any portion of the Property except within garages, carports, or designated parking areas. Temporary guest parking on a road or upon the Property outside a garage, carport, or designated parking area is allowed as long as it does not interfere with or cause a nuisance to the surrounding residences. No work on automobiles or other vehicle repair shall be performed on any portion of the Property except in emergencies.

Section 8.23 Abandoned, Inoperable, or Oversized Vehicles. Abandoned or inoperable automobiles or vehicles of any kind, except as hereinafter provided, shall not be stored or parked on any portion of the Property. "Abandoned or inoperable vehicle" shall be defined as any vehicle which has not been driven under its own propulsion for a period of three weeks or longer; provided, however, this shall not include vehicles parked by Owners while on vacation. A written notice describing the "abandoned or inoperable vehicle" and requesting removal thereof may be personally served upon the Owner or posted on the unused vehicle; and if such vehicle has not been removed within seventy-two hours thereafter, the Association shall have the right to remove the same without liability to it, and the expense thereof shall be charged against the Owner. "Oversized" vehicles, for purposes of this section, shall be vehicles which are too high to clear the entrance to a residential garage. All unsightly or oversized vehicles, snow removal equipment, garden maintenance equipment, recreational vehicles or equipment, and all other unsightly equipment and machinery may be required by Declarant or the Board of Directors to be stored at a location or locations designated.

Section 8.24 Antennae. No exterior radio, television, microwave or other antennae or antenna dish or signal capture and/or distribution device shall be permitted without the prior written consent of the Design Review Board, and appropriate screening.

Section 8.25 Outside Burning. There shall be no exterior fires, except barbecues, outside fireplaces, and braziers, contained within facilities or receptacles and in areas designated and approved by the Design Review Board. No Owner shall permit any condition upon its portion of the Property which creates a fire hazard or is in violation of fire prevention regulations.

Section 8.26 Noise. No exterior horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the Property or portion thereof and improvements thereon and except for bells or chimes on chapels, shall be placed or used on any portion of the Property.

Section 8.27 Camping/Assemblies. No camping shall be allowed within the Property except in compliance with rules pertaining thereto adopted by the Association. The Board, in its discretion, may ban or permit public assemblages and rallies within the Property.

Section 8.28 House Numbers. Each dwelling shall have a house number conforming to a design and location established by the Design Review Board.

Section 8.29 Continuity of Construction. All Improvements commenced on the Project shall be prosecuted diligently to completion and shall be completed within twelve months of commencement, unless an exception is granted in writing by the Design Review Board. If an Improvement is commenced and construction is then abandoned for more than ninety days or construction is not completed within the required twelve month period, and after notice and hearing as provided in the Bylaws, then the Association may impose a fine of not less than One Hundred Dollars per day on the Owner of the Ranch Estate until construction is resumed, or the Improvement is completed, as applicable, unless the Owner can prove to the satisfaction of the Board that such abandonment is for circumstances beyond the Owner's control. Such charges shall be a Default Assessment and lien as provided in Article IV, Section 7 hereof.

Section 8.30 Nuisance. No obnoxious or offensive activity shall be carried on within the Property, nor shall anything be done or permitted which shall constitute a public nuisance therein. No noise or other nuisance shall be permitted to exist or operate upon the Property so as to be offensive or detrimental to any other part of the Property or its occupants.

Section 8.31 General Practices Prohibited. The following practices are prohibited at The Danni Ranch:

8.31.1 Changing oil on any vehicle or equipment other than within a garage or at a location designated for that purpose by the Design Review Board;

8.31.2 Allowing concrete suppliers and contractors to clean their equipment other than at a location designated for that purpose by the Design Review Board;

8.31.3 Removing any rock, plant material, top soil or similar items from any property of others;

8.31.4 Using firearms, fireworks, cross-bows, or the like. Under certain conditions and only persons with hunting permits may use firearms for the disposal of unwanted predators upon approval of the Association only.

8.31.5 Using surface water for construction; or

8.31.6 Carelessly depositing of cigarettes and other flammable materials.

Section 8.32 Association's Use. It shall be expressly permissible and proper for the Association and any Owner and their employees, agents, independent contractors, successors, and assigns while involved in the construction of improvements on the Property, or the providing of utility service therefor to perform such activities and to maintain upon such portions of the Property as they deem necessary such facilities as may be reasonably required, convenient, necessary, or incidental to such construction and sale, specifically including, without limiting the generality of the foregoing, maintaining business offices, storage areas, construction yards and equipment, signs, and sales offices; provided, however, that no activity shall be performed and no facility shall be maintained on any portion of the Property in such a way as to unreasonably interfere with or disturb any purchaser or Owner of a Ranch Estate, or to unreasonably interfere with the use, enjoyment, or access of such Owner, its tenants, employees, guests, or business invitees, of and to its Ranch Estate. If any Owner's use under this provision is deemed objectionable by the Association, in its sole discretion, then the Association (or the Design Review Board, as applicable) may withdraw such permission.

Section 8.33 Leasing. The Owner of a Ranch Estate shall have the right to lease such Ranch Estate subject to the following conditions:

8.33.1 All leases shall be in writing.

8.33.2 The lease shall be specifically subject to The Danni Ranch Association Documents and any failure of a lessee to comply with The Danni Ranch Association Documents shall be a default under the lease.

8.33.3 The Owner shall be liable for any violation of The Danni Ranch Association Documents committed by such Owner's tenant, without prejudice to such Owner's right to collect any sums paid for the tenant.

Section 8.34 Fences. An Owner may fence all or a portion of his Ranch Estate, all subject to the Design Guidelines and approval of the Design Review Board.

Section 8.35 Other Buildings. Subject to the Design Guidelines and approval of the Design Review Board, and subject to Section 8.3 and the other provisions of these Covenants, an Owner may construct upon his Ranch Estate the following types of buildings: (i) barn (which may be located on or off the Building Site); (ii) art studio; (iii) workshop for personal hobbies or pursuits; or (iv) other buildings approved by the Design Review Board.

## ARTICLE IX

### MAINTENANCE

Section 9.1 Association's Responsibility. The Association shall maintain and keep the roads (except driveways), Caretaker Tract, Stable Tract, Pond Tract, the Skiing Easement, and the Fishing Easement in good repair, such maintenance to be funded as hereinafter provided. This maintenance shall include, but not be limited to, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, and improvements situated upon the Caretaker, Stable, and Pond Tracts, and of the private roads within the Property.

Section 9.2 Owner's Responsibility. Except as provided otherwise in The Danni Ranch Association Documents, or by written agreement within the Association, all maintenance of the Ranch Estates and all structures, landscaping, parking areas, and other Improvements thereon shall be the sole responsibility of the Owner thereof who shall maintain said Ranch Estate in accordance with the community-wide standard of The Danni Ranch. The Association shall, in the discretion of the Association, assume the maintenance responsibilities of such Owner if, in the opinion of the Association, the level and quality of maintenance being provided by such Owner does not satisfy such standard. Before assuming the maintenance responsibilities, the Association shall notify the Owner in writing of its intention to do so, and if such Owner has not commenced and diligently pursued remedial action within thirty days after mailing of such written notice, then the Association shall proceed. The expenses of such maintenance by the Association shall be reimbursed to the Association by the Owner, together with interest at five points above the prime rate charged by the Association's bank, or such other rate set by the Board of Directors, from the date of expenditure. Such charges shall be a Default Assessment and lien on the Ranch Estate of the Owner as provided in Section 4.7 hereof.

## ARTICLE X

### INSURANCE AND FIDELITY BONDS

Section 10.1 Hazard Insurance. The Association shall obtain insurance for all insurable improvements on the Caretaker, Stable, and Pond Tracts in an amount equal to the full replacement value (i.e., 100 percent of the current "replacement cost" exclusive of land, foundation, excavation, depreciation on personal property, and other items normally excluded from coverage) which shall include all building service equipment and the like, common

personal property and supplies, and any fixtures or equipment. Such policy shall include, if applicable, a standard form of mortgagee clause, a "Demolition Cost Endorsement" or its equivalent and an "Increased Cost of Construction Endorsement" or the equivalent and a "Contingent Liability from Operation of Building Laws Endorsement" or the equivalent. In addition, such policy shall afford protection against at least the following:

10.1.1 Loss or damage by fire and other hazards covered by the standard extended coverage endorsement with the standard "all-risk" endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage.

10.1.2 Such other risks as shall customarily be covered with respect to projects similar in construction, location, and use to The Danni Ranch.

**Section 10.2 Liability Insurance.** The Association shall obtain a comprehensive policy of public liability insurance insuring the Association and the Owners (including specifically the Owners of Ranch Estates 1 and 2) for all liability for property damage, bodily injury, or death in connection with the operation, maintenance, or use of the Caretaker, Stable, and Pond Tracts, the Skiing Easement, the Fishing Easement, and the Irrigation Easement or roads within The Danni Ranch, and legal liability arising out of lawsuits related to employment contracts of the Association. Such comprehensive policy of public liability insurance shall include a "Severability of Interest Endorsement" or equivalent coverage which would preclude the insurance company from denying the claim of any Owner because of the negligent acts of the Association or any other Owner, with a limit not less than \$1,000,000.00 (nor more than that amount which is customary and reasonable for similar subdivision homeowners associations in the State of Colorado) covering all claims for personal injury, including death, or property damage arising out of a single occurrence. Such comprehensive policy of public liability insurance shall also include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and, if applicable, garagekeeper's liability, host liquor liability, contractual and all-written contract insurance, employers' liability insurance, and such other risks as shall customarily be covered with respect to projects similar in construction, location, and use to The Danni Ranch.

**Section 10.3 Fidelity Insurance.** The Association shall obtain fidelity bonds to protect against dishonest acts on the part of its officers, directors, trustees, and employees and on the part of all others who handle or are responsible for handling the funds of or administered by the Association. In addition, if responsibility for handling funds is delegated to a Manager, such bonds shall be required for the Manager and its officers, employees, and agents. Such fidelity coverage shall name the Association as an obligee and shall be written in an amount equal to at least one hundred fifty percent of the estimated annual operating expenses of the Association, including reserves. Such bonds shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions.

**Section 10.4 Provisions Common to Hazard Insurance, Liability Insurance, and Fidelity Insurance.** Any insurance coverage obtained by the Association under the provisions of Section 10.1, 10.2 and 10.3 hereof shall be subject to the following provisions and limitations:

10.4.1 The named insured under any such policies shall be the Association, as attorney-in-fact for the Owners, or its authorized representative,



including any trustee with which the Association may enter into any Insurance Trust Agreement, or any successor trustee (each of which is sometimes referred to in this Section 4 as the "Insurance Trustee") who shall have exclusive authority to negotiate losses under such policies. All such policies shall provide for the issuance of loss payee endorsements to each Owner with respect to the Ranch Estate owned by him.

10.4.2 In no event shall the insurance coverage obtained and maintained pursuant to such sections be brought into contribution with insurance purchased by the Owners, occupants, or their Mortgagees.

10.4.3 The policies shall provide that coverage shall not be prejudiced by (1) any act or neglect of the Owners when such act or neglect is not within the control of the Association or (2) by failure of the Association to comply with any warranty or condition with regard to any portion of The Danni Ranch over which the Association has no control.

10.4.4 The policies shall provide that coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty days' prior written notice to any and all First Mortgagees and insureds named therein.

10.4.5 The policies shall contain a waiver of subrogation by the insurer as to any and all claims against the Association and any Owner and their respective agents, employees, or tenants, and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured.

10.4.6 All policies of property insurance shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Association (or any Insurance Trustee) or when in conflict with the provisions of any Insurance Trust Agreement to which the Association may be a party or any requirement of law.

10.4.7 All policies shall be written with a company licensed to do business in the State of Colorado and holding a rating of B/VI or better in the financial category as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.

10.4.8 All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Gunnison County, Colorado, area.

10.4.9 No policy may be cancelled, invalidated, or suspended on account of the conduct of any member of the Board of Directors, officer, or employee of the Association or its duly authorized Manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time hereafter within which the defect may be cured by the Association, its Manager, any Owner, or Mortgagee.

Section 10.5 Officers and Directors Personal Liability Insurance. To the extent obtainable at reasonable cost, appropriate officers' and directors' personal liability insurance shall be obtained by the Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and directors on behalf of the Association.

Section 10.6 Workmen's Compensation Insurance. The Association shall obtain workmen's compensation or similar insurance with respect to its employees, if any, in the amounts and forms as may now or hereafter be required by law.

Section 10.7 Other Insurance. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Association's responsibilities and duties.

Section 10.8 Insurance Obtained by Owners. It shall be the responsibility of the individual Owners, and at their expense, to make arrangements in regard to title insurance on their Ranch Estates upon any resale, for hazard insurance on the Improvements, personal property and furnishings located on their Ranch Estates, and for public liability insurance covering their Ranch Estates. In addition, each Owner may obtain such other and additional insurance coverage on and in relation to his Ranch Estate as such Owner concludes to be desirable; provided, however, that none of such insurance coverages obtained by an Owner shall affect any insurance coverages obtained by the Association nor cause the diminution or termination thereof. Any such insurance obtained by an Owner shall waive the particular insurance company's right of subrogation against the Association and other Owners.

## ARTICLE XI

### DAMAGE OR DESTRUCTION

Section 11.1 Association as Attorney-in-Fact. Each and every Owner hereby irrevocably constitutes and appoints the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place, and stead for the purpose of dealing with the Improvements on the Caretaker, Stable, and Pond Tracts upon its damage or destruction as provided in this Article. Acceptance by any grantee of a deed or other instrument of conveyance from the Association or from any Owner shall constitute appointment of the attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right, and power to make, execute, and deliver any contract, assignment, deed, waiver, or other instrument with respect to the interest of any Owner which may be necessary or appropriate to exercise the powers granted to the Association as attorney-in-fact.

Section 11.2 Estimate of Damages or Destruction. As soon as practical after an event causing damage to or destruction of any part of the Improvements upon the Caretaker, Stable, or Pond Tracts, the Association shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction of that part of such Improvements so damaged or destroyed. "Repair and Reconstruction" as used in this Article XI shall mean restoring the damaged or destroyed Improvements to substantially the same condition in which they existed prior to the damage or destruction.

**Section 11.3 Repair and Reconstruction.** As soon as practical after obtaining estimates, the Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed Improvements. As Attorney-in-Fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction and no consent or other action by an Owner shall be necessary in connection therewith. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

**Section 11.4 Funds for Repair and Reconstruction.** The proceeds received by the Association from any hazard insurance shall be used for the purpose of repair, replacement, and reconstruction. If the proceeds of the insurance are insufficient to pay the estimated or actual cost of such repair and reconstruction, the Association may, pursuant to Section 4.4 hereof, levy, assess, and collect in advance from all Owners, without the necessity of a special vote of the Owners except as provided therein, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair and reconstruction.

**Section 11.5 Disbursement of Funds for Repair and Reconstruction.** The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for in Section 4.4 hereof constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made as a Special Assessment to the Association under Section 11.4 hereof, or, if no special Assessments were made, then in equal shares per Ranch Estate, first to the Mortgagees and then to the Owners, as their interests appear.

**Section 11.6 Decision Not to Rebuild.** If sixty-seven percent of the Owners and sixty-seven percent of the First Mortgagees (based upon one vote for each Mortgage owned) of the Ranch Estates agree in writing not to repair and reconstruct and no alternative Improvements are authorized, then and in that event the Property shall be restored to its natural state and maintained as an undeveloped portion of the Caretaker, Stable, or Pond Tracts, as applicable, by the Association in a neat and attractive condition, and any remaining insurance proceeds shall be distributed in equal shares per Ranch Estate first to the Mortgagees and then to the Owners, as their interests appear.

**Section 11.7 Damage or Destruction on Ranch Estates.** In the event of damage or destruction to the Improvements located on any of the Ranch Estates, the Owner thereof shall promptly repair the damaged Improvements to their condition prior to such damage or destruction or remove the damaged Improvements and restore the land to its original condition before the Improvements were built. If such repair or removal and restoration is not commenced within one hundred eighty days from the date of such damage or destruction, then the Association may, after notice and hearing as provided in the Bylaws, impose a fine of not less than One Hundred Dollars per day on the Owner of the Ranch Estate until repair or removal and restoration is commenced, or if repair or removal and restoration is commenced but then abandoned for a period of more than ninety days, unless the Owner can prove to the satisfaction of the Association that such failure is due to circumstances

beyond the Owner's control. Such fine shall be a default assessment and lien against the Ranch Estate as provided in Section 4.7.

## ARTICLE XII

### ENFORCEMENT OF COVENANTS

Section 12.1 Violations Deemed a Nuisance. Every violation hereof or any other of The Danni Ranch Association Documents is deemed to be a nuisance and is subject to all the remedies provided for the abatement thereof. In addition, all public and private remedies allowed at law or equity against anyone in violation of these Covenants shall be available.

Section 12.2 Compliance. Each Owner or other occupant of any part of the Property shall comply with the provisions of The Danni Ranch Association Documents as the same may be amended from time to time.

Section 12.3 Failure to Comply. Failure to comply herewith shall be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Reasonable notice and an opportunity for a hearing as provided in the Bylaws shall be given to the delinquent Owner prior to commencing any legal proceedings.

Section 12.4 Who May Enforce. Any action to enforce The Danni Ranch Association Documents may be brought by the Association, or the Manager in the name of the Association. If, after a written request from an aggrieved Owner, none of the foregoing persons or entities commence an action to enforce The Danni Ranch Association Documents, then the aggrieved Owner may bring such an action.

Section 12.5 Remedies. In addition to the remedies set forth above in this Article XII, any violation of The Danni Ranch Association Documents shall give to the Association, or the Manager, the right to enter upon the offending premises or take appropriate peaceful action to abate, remove, modify or replace, at the expense of the offending Owner, any structure, thing or condition that may exist thereon contrary to the interest and meaning of The Danni Ranch Association Documents. If the offense occurs on the Caretaker, Stable, or Pond Tracts, or the Fishing Easement, or Irrigation Easement, the cure shall be at the expense of the Owner or other person responsible for the offending condition.

Section 12.6 Nonexclusive Remedies. All the remedies set forth herein are cumulative and not exclusive.

Section 12.7 No Waiver. The failure of the Association, the Manager, the Design Review Board, or any aggrieved Owner to enforce The Danni Ranch Association Documents shall not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of The Danni Ranch Association Documents at any future time.

Section 12.8 No Liability. No member of the Board, the Association, the Design Review Board, the Manager, nor any Owner shall be liable to any other Owner for the failure to enforce any of The Danni Ranch Association Documents at any time.

Section 12.9 Recovery of Costs. If legal assistance is obtained to enforce any of the provisions hereof, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of or to restrain the violation of The Danni Ranch Association Documents, the prevailing party shall be entitled to recover all costs incurred by it in such action, including reasonable attorneys' fees as may be incurred, or if suit is brought, as may be determined by the court.

### ARTICLE XIII

#### RESOLUTION OF DISPUTES

If any dispute or question arises between Owners or between Owners and the Association or the Design Review Board relating to the interpretation, performance or nonperformance, violation, or enforcement of The Danni Ranch Association Documents, such matter may be subject to a hearing and determination by the Board in accordance with the procedures set forth in the Bylaws.

### ARTICLE XIV

#### DURATION OF THESE COVENANTS AND AMENDMENT

Section 14.1 Term. This Declaration of Covenants and any amendments or supplements thereto shall remain in effect from the date of recordation until December 31, 2020. Thereafter these Covenants shall be automatically extended for five successive periods of ten years each, unless otherwise terminated or modified as hereinafter provided.

Section 14.2 Amendment. This Declaration, or any provision hereof, may be terminated, extended, modified, or amended, as to the whole of the Property or as to any portion thereof, upon the written consent of Owners of at least sixty-seven percent of the Ranch Estates in the Property. Amendments made pursuant hereto shall inure to the benefit of and be binding upon all Owners of any part of the Property, their family, tenants, guest, invitees, and employees, and their respective heirs, successors, and assigns.

Section 14.3 Notice of Amendment. No amendment of this Declaration shall be effective unless a written notice of the proposed amendment is sent to every Owner at least thirty days in advance of any action taken or purported to be taken and such Owner has been given the opportunity to vote or give its consent thereto.

Section 14.4 Effective on Recording. Except as otherwise provided by law, any amendment shall be immediately effective upon recording a copy of such amendment, executed and acknowledged by the President or Vice President of the Association, in the office of the Clerk and Recorder of Gunnison County, Colorado.

Section 14.5 Revocation. This Declaration shall not be revoked without the consent of all of the Owners in a written instrument duly recorded.

## ARTICLE XV

### PRINCIPLES OF INTERPRETATION

Section 15.1 Severability. This Declaration, to the extent possible, shall be construed or reformed so as to give validity to all of the provisions hereof. Any provision of this Declaration found to be prohibited by law or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating any other part hereof.

Section 15.2 Construction. In interpreting words herein, unless the context shall otherwise provide or require, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

Section 15.3 Headings. The headings are included only for purposes of convenient reference, and they shall not affect the meaning or interpretation of this Declaration.

Section 15.4 Registration of Mailing Address. Each Owner shall register his mailing address with the Secretary of the Association from time to time, and notices or demands intended to be served upon or given to an Owner shall be personally delivered to or sent by mail, postage prepaid, addressed in the name of the Owner at such registered mailing address.

Section 15.5 Notice. All notices or requests required hereunder shall be in writing. Notice to any Owner shall be considered delivered and effective upon personal delivery, or three days after posting, when sent by certified mail, return receipt requested, to the address of such Owner on file in the records of the Association at the time of such mailing. Notice to the Association or to the Design Review Board shall be considered delivered and effective upon personal delivery, or three days after posting, when sent by certified mail, return receipt requested, to the Association, the Design Review Board or the Manager, at such address as shall be established by the Association from time to time by notice to the Owners. General notices to all Owners or any classification thereof need not be certified, but may be sent regular first class mail.

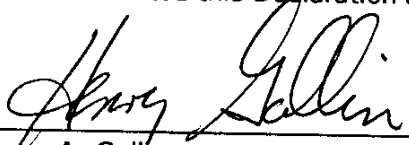
Section 15.6 Waiver. No failure on the part of the Association or the Design Review Board to give notice of default or to exercise or to delay in exercising any right or remedy hereunder shall operate as a waiver, except as herein specifically provided should the Design Review Board fail to respond to certain requests. No waiver shall be effective unless it is in writing, signed by the President or Vice-President of the Board on behalf of the Association or by the Chairman of the Design Review Board if on behalf of the Design Review Board.

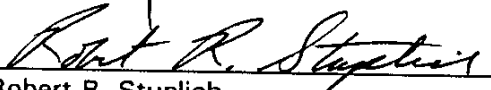
Section 15.7 Limitation of Liability. Neither the Association, the Design Review Board, nor any officer or director of the Board shall be liable to any party for any action or for any failure to act with respect to any matter arising by, through or under The Danni Ranch Documents if the action of failure to act was made in good faith. The Association shall indemnify all of the Design Review Board members and officers and directors of the Board with respect to any act taken in their official capacity to the extent provided herein and by law and in the Articles and Bylaws of the Association.

Section 15.8 Conflicts Between Documents. In case of conflict between the Declaration and the Articles of Incorporation or the Bylaws, the Declaration shall control. In case of conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control. In case of conflict between the Declaration and Design Guidelines, the Design Guidelines shall control.

Section 15.9 Assignment. Henry A. Gallin may assign all or any part of his rights and reservations hereunder to any successor who takes title to all or part of the Property in a bulk purchase for the purpose of development and sale, and/or to the Association, in whole or in part. Such successor shall be identified, the particular rights being assigned shall be specified, and, to the extent required, concomitant obligations shall be expressly assumed by such successor, all in a written instrument duly recorded in the records of the Clerk and Recorder of Gunnison County, Colorado.

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the day first above written.

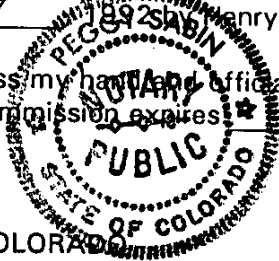
  
Henry A. Gallin

  
Robert R. Stuplich

STATE OF COLORADO )  
County of Gunnison ) ss.  
)

The foregoing Declaration was acknowledged before me this 7<sup>th</sup> day of August, 1992 by Henry A. Gallin.

Witness my hand and official seal.  
My commission expires 9-15-93

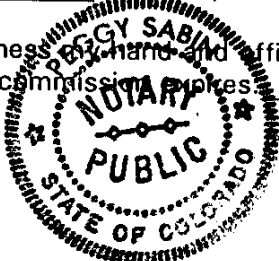


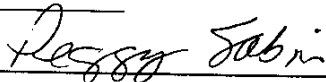
  
Notary Public

STATE OF COLORADO )  
County of Gunnison ) ss.  
)

The foregoing Declaration was acknowledged before me this 7<sup>th</sup> day of August, 1992 by Robert R. Stuplich.

Witness my hand and official seal.  
My commission expires 9-15-93



  
Notary Public

Township 15 South, Range 85 West, 6th Principal Meridian:

Section 10:

S1/2;  
S1/2NW1/4;  
SW1/4NE1/4;

NW1/4NW1/4, excepting therefrom the following described parcel of land conveyed to Cecil V. Sampson by Warranty Deed recorded in Book 245 at page 492 of the records of the County Clerk and Recorder of Gunnison County, Colorado, namely:

Commencing at a point at the Northwest Corner of the Northwest Quarter of the Northwest Quarter of said Section 10, Township 15 South, Range 85 West of the 6th P.M.; thence running East along the north line of said forty acre tract 470 feet to Corner No. 1, the place of beginning; thence to Corner No. 2, which is the Northeast corner of said forty acre tract; thence south along the East line of said forty acre tract 1050 feet to a point 270 feet north of the Southeast corner of said forty acre tract being Corner No. 3; thence northwesterly 1350.8 feet to Corner No. 1, the place of beginning, containing 10.244 acres, more or less.

Section 14:

NW1/4NW1/4

Section 15:

N1/2NE1/4  
N1/2NW1/4

Section 11:

A tract of land located in the W1/2SW1/4 and NE1/4SW1/4 described as follows:

Beginning at the Southwest Corner of Section 11 (a 2 inch pipe monument with a 4 inch aluminum cap); thence North 00°09'41" West 2690.45 feet to the West 1/4 Corner of said Section 11 (a 2 inch pipe monument with a 3 inch brass cap); thence North 89°40'15" East along the East-West centerline of said Section 11 a distance of 1076.24 feet to the Westerly boundary of a parcel of land to be conveyed to Weatherly; thence continuing along the proposed Weatherly Parcel boundaries, first South 03°37'05" West 34.99 feet; thence South 87°24'48" East 74.06 feet; thence due South 5.43 feet; thence North 89°46'08" East 223.05 feet to the centerline of the remnant/abandoned Crested Butte Branch of the Denver & Rio Grande Western Railroad (said centerline being determined by alignment with the existing fence line which is also the Westerly right-of-way boundary of Colorado Highway No. 135, Book 297 at Pages 522 and 523 of the Gunnison County Records); thence South 15°21'06" East along said fenced railroad centerline/Westerly highway boundary 1346.77 feet to the South boundary of the said Northeast 1/4 of the Southwest 1/4; thence South 89°40'15" West along said South boundary 408.32 feet to the Southwest Corner of said Northeast 1/4 of the Southwest 1/4 marked by a 2 inch pipe monument with a 4 inch aluminum cap stamped: "1/16-S.11-6753"; thence South 00°24'02" East 1345.23 feet to the Southeast Corner of the said West 1/2 of the Southwest 1/4 marked by a 2 inch pipe monument with a 4 inch aluminum cap stamped: "W1/16-S.11/S.14-6753"; thence South 89°40'16" West along the South line of said Section 11 a distance of 1321.13 feet to the point of beginning.

County of Gunnison,  
State of Colorado.

EXHIBIT A



Filed for record the 19th of December 1989 at 2:15 P.M. in the County of Gunnison, CO  
Reception No. 417777  
By Joanne M. Reitingher Deputy

BARGAIN AND SALE DEED

STATE OF COLORADO  
DATE 12/19/89  
No Fee

JOSEPH HUGH DANNI and GWENDOLYN ROSE DANNI whose address is 17239 North Highway 135, Almont, Colorado 81210, for the consideration of ten dollars and other valuable consideration in hand paid, hereby sell and convey to HENRY A. GALLIN, whose address is 25 East 86th Street, New York, New York 10028, the following real property in the County of Gunnison, and State of Colorado, to wit:

All water and water rights, ditch and ditch rights pertaining to the real property set forth on attached Exhibit A, used on or in connection therewith and including, but not limited to the following:

Happy Hollow Highline Ditch, Ditch No. 183, and the water decreed thereto, being Priority No. 197 for 0.75 cubic feet of water per second of time and Priority No. 362 for 2.25 cubic feet of water per second of time;

Danni Enlargement and Extension of the East River Ditch, Ditch No. 359, and the water decreed thereto in Priority No. 599 for 0.8 cubic feet of water per second of time;

Danni Ditch, Case No. W-531, and the 1.0 cubic feet of water per second of time decreed thereto;

Danni Spring and Pipeline No. 1, Case No. W-1886, and the 0.033 cubic feet of water per second of time decreed thereto;

Danni Spring and Pipeline No. 2, Case No. W-1887, and the 0.033 cubic feet of water per second of time decreed thereto;

In Water District 59, Water Division 4, State of Colorado,

with all appurtenances.

Signed this 19th day of December, 1989.

Joseph Hugh Danni  
Joseph Hugh Danni

Gwendolyn Rose Danni  
Gwendolyn Rose Danni

Prepared by:  
Russell & Wright, P.C.  
Attorneys for Joseph Hugh Danni  
and Gwendolyn Rose Danni  
P.O. Box 179  
Gunnison, Colorado 81230  
File 10,050  
dann-gal.bsd

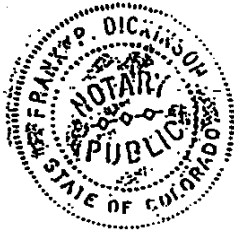
EXHIBIT B

STATE OF COLORADO )  
County of Gunnison ) ss.

19 The foregoing instrument was acknowledged before me this day of December, 1989, by Joseph Hugh Danni and Gwendolyn Rose Danni.

Witness my hand and official seal.

My commission expires: 4-6-93



Frank P. Dickinson  
Notary Public  
Address: 504 N. MAIN  
GUNNISON, CO 81206

EXHIBIT A

Township 15 South, Range 85 West, 6th Principal Meridian:

Section 10:

S1/2;

S1/2NW1/4;

SW1/4NE1/4;

NW1/4NW1/4, excepting therefrom the following described parcel of land conveyed to Cecil V. Sampson by Warranty Deed recorded in Book 245 at page 492 of the records of the County Clerk and Recorder of Gunnison County, Colorado, namely:

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inch pipe monument with a 4 inch aluminum cap stamped: '1/16-S.11-6753'; thence South 00°24'02" East 1345.23 feet to the Southeast Corner of the said West 1/2 of the Southwest 1/4 marked by a 2 inch pipe monument with a 4 inch aluminum cap stamped: 'W1/16-S.11/S.14-6753'; thence South 89°40'16" West along the South line of said Section 11 a distance of 1321.13 feet to the point of beginning, containing 88.03 acres, more or less.

Together with the grant of the private nonexclusive easement and right-of-way as set forth in the Mutual Easement Agreement dated October 5, 1989 and recorded December 12, 1989 in Book 673 at page 253 of the records of Gunnison County, Colorado.

July 3, 1991

BK PG  
710 66

DISTRICT COURT, WATER DIVISION 4, COLORADO  
Case No. 90CW149

JUL 3 1991

Ray Phillips, Clerk

---

AMENDED FINDINGS OF FACT AND DECREE APPROVING PLAN OF AUGMENTATION

---

CONCERNING THE APPLICATION FOR WATER RIGHTS OF HENRY A. GALLIN IN  
GUNNISON COUNTY, COLORADO

---

This matter comes on for determination upon the application of Henry A. Gallin for water storage right and approval of plan of augmentation filed December 27, 1990.

FINDINGS OF FACT  
GENERAL

1. All notices required by law pertaining to the filing of this application have been given.
2. The Referee has jurisdiction of this matter.
3. The time for filing of statements of opposition has expired, and no such statements have been filed.
4. The applicant is the owner and developer of a proposed subdivision in portions of Section 10, 11, 14, and 15 of Township 15 South, Range 85 West, Sixth Principal Meridian in Gunnison County, Colorado within the drainage of the East River, a tributary of the Gunnison River in old water district 59 of Water Division 4.
5. As part of the subdivision development, the applicant will construct roads to provide access to the various tracts in the subdivision, the construction of which roads will require gravel which the applicant intends to quarry upon his property, which quarrying will result in the exposure of ground water to the atmosphere in the resulting pond, known as The Danni Ranch Pond. Therefore, in accordance with the provisions of Section 37-90-137(11)(a)(I) Colorado Revised Statutes, the applicant has sought a well permit from the Colorado State Engineer prior to exposing ground water to the atmosphere in such pond, and in compliance with said statute seeks approval of a plan of augmentation to replace evaporative loss from the surface of such pond.

Danni Ranch Pond/Find.Decree  
RWR&M 10,529 (2) 06-26-91

EXHIBIT B

6. The applicant originally requested a storage right in The Danni Ranch Pond, but subsequently dismissed that portion of the application.

FINDINGS OF FACT  
PLAN OF AUGMENTATION

7. The structure to be augmented herein is The Danni Ranch Pond, which will have a total capacity of 22.5 acre feet, a surface area of 1.5 acres, an average depth of fifteen feet, no active storage, a dam height of less than ten feet, and the following point of storage:

In the SE1/4SW1/4SW1/4 of Section 11, Township 15 South, Range 85 West, Sixth Principal Meridian at a point whence the Southwest corner of said Section 11 bears South 2° West 1,125.00 feet.

8. The Danni Ranch Pond at an elevation of 8,400 feet will generate evaporative loss of 32.5 inches per acre per year, less net annual precipitation during the approximately seven months that the pond will not normally be frozen of 6.75 inches per acre (being 70% of total precipitation of 9.65 inches per acre during the same seven months) for a net annual evaporative loss of 25.75 inches per acre. The monthly components of such loss are as follows:

	<u>May</u>	<u>June</u>	<u>July</u>	<u>Aug</u>	<u>Sept</u>	<u>Oct</u>
Pan Evaporation	5.55	6.69	6.73	5.84	4.58	3.12
Total Precipitation	1.43	1.17	1.87	1.93	1.71	1.54
70%	<u>1.00</u>	<u>.82</u>	<u>1.31</u>	<u>1.35</u>	<u>1.20</u>	<u>1.07</u>
Total	4.55	5.87	5.42	4.49	3.38	2.05

25.75 inches equals 2.15 acre feet per acre which, over the 1.5 surface acres of The Danni Ranch Pond, will equal 3.21 acre feet of evaporative loss over the seven months of the year the pond is not frozen.

9. The Danni Ranch Pond is located within an area heavily irrigated by the Happy Hollow Highline Ditch, Ditch No. 183, and 0.75 cfs of water decreed thereto owned by the applicant under priority 197 and 2.25 cfs owned by the applicant under priority 362. Evaporation from standing water and evapotranspiration off meadow grass surfaces has historically generated consumptive use of 1.5 acre feet per irrigated acre, or 2.25 acre feet annually over the surface area which will now be occupied by The Danni Ranch

Pond. The difference between such historic evaporation/evapotranspiration loss (2.25 acre feet) and the surface evaporation from The Danni Ranch Pond (3.21 acre feet) equals 0.94 acre feet annually. The season of use of the Happy Hollow Highline Ditch is approximately the same as the period of time The Danni Ranch Pond will not be frozen and hence will generate consumptive use through evaporation. Accordingly, the increased consumptive use of 0.94 acre feet will be augmented by permanently ceasing the irrigation of 0.63 acres historically irrigated by the Happy Hollow Highline Ditch within the W1/2SW1/4 of Section 11, Township 15 South, Range 85 West, Sixth Principal Meridian.

10. The roads which the applicant intends to construct are located within the area historically irrigated by the Happy Hollow Highline Ditch, and will entail a width of 20 feet and a length of 3,000 feet, or a total area of 60,000 square feet (1.37 acres). At the consumptive use ratio of 1.5 acre feet per irrigated acre, the dry-up of such area will eliminate 2.05 acre feet of historic irrigation season consumptive use. This amount far exceeds the net evaporative loss of 0.94 acre feet for which augmentation is required.

11. In order to insure that there will be no enlargement of use, headgate diversions from Priority No. 197 of the Happy Hollow Highline Ditch must be reduced by the amount of 0.06 cfs, leaving 0.69 cfs owned by the Applicant.

#### RULING AND DECREE

12. The terms and conditions of the foregoing findings of fact are specifically incorporated herein by reference.

13. It is the decree of this Court that the plan of augmentation above described is hereby approved. The Court specifically finds such plan of augmentation is such that replacement water shall be provided to the extent necessary to meet the lawful requirements of and prevent injury to senior diverters at the time and location and to the extent the senior diverters would otherwise be deprived of their lawful entitlement by the evaporative loss from the surface of The Danni Ranch Pond, and is in conformity with the requirements of Section 37-90-137(11)(a)(I) Colorado Revised Statutes.

14. The Colorado State Engineer, the Division 4 Engineer, and other water administration officials shall administer and comply with the plan of augmentation herein approved by directing the applicant to curtail all out of priority diversions the depletions from which are not so replaced as to prevent injury to vested water rights.

15. The Court shall retain jurisdiction in accordance with Section 37-92-304(6) Colorado Revised Statutes for a period of three years in order to consider any additional evidence regarding consumption and return flow from the water rights granted herein and the operation and effect of the plan of augmentation approved herein, and in order to address future potential injury and protection of senior vested water rights and conditional water rights.

16. During the month of July, 1991, and every six years thereafter until the water rights decreed herein are decreed absolute, the owner or user thereof, if it is desired to maintain the same, shall file an application for finding of reasonable diligence with the Water Clerk of this Court. Upon the sale or other transfer of such conditional water right, the transferee shall file with this Court a notice of transfer which shall state:

- 16.1 The title and case number of this case.
- 16.2 The description of the conditional water right transferred.
- 16.3 The name of the transferor.
- 16.4 The name and mailing address of the transferee.

The applicant shall notify any transferee of the requirements of this paragraph. The owner of this conditional water right shall notify the Clerk of this Court of any change in mailing address.

ENTERED July 3, 1991.

No protest was filed in this matter. The foregoing ruling is confirmed and approved, and is made the Judgment and Decree of this court.

Dated: 7-23-91  
Robert DeBrowe  
Water Judge

Aaron R. Clay  
Aaron R. Clay, Water Referee,  
Water Division 4

Mailed-A Copy of this Document to all parties in this case.

Dated 7-24-91  
Dan Campbell  
Kay Phillips, Water Clerk Deputy

Danni Ranch-Pond/Find.Decree  
RWR&M 10,529 (2) 06-26-91

CERTIFIED TO BE A FULL  
TRUE AND CORRECT COPY OF  
ORIGINAL IN MY CUSTODY

4 DATE 7-24-91  
Dan Campbell  
Deputy WATER CLERK DIVISION #4