

**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS OF
DEER CROSSING ESTATES SUBDIVISION**

THIS DECLARATION is made and entered into this ____ day of _____,
_____ by Helen E. Kelley Living Trust (“Declarant”).

RECITALS

The Undersigned, Declarant, is the owner of certain real property situated in Mesa County, Colorado, known as Deer Crossing Estates Subdivision, according to the plat thereof recorded the _____ day of _____, _____, in Mesa County, Colorado of the real property records of Mesa County, Colorado containing a total of 7 Lots and 3 Outlots, hereinafter defined, including the easements and licenses appurtenant to, or included in the property as shown on the plat.

A. The Undersigned Declarant hereby declares that they are the owner of the real property described in Exhibit A attached. Declarant names the property Deer Crossing Estates Subdivision, (the “Property”). The Property shall be held, sold, and conveyed subject to the following covenants, restrictions and easements which are for the purpose of protecting the value and desirability of the Property, and which shall run with the land and be binding on all parties and all heirs, successors, and assigns of parties having any right, title, or interest in all or any part of the Property. Said Covenants, Conditions and Restrictions shall not now, nor in perpetuity, extend beyond the boundaries of Deer Crossing Estates Subdivision by any action, legal or otherwise, by the Declarant(s) or Owners.

B. Additionally, these covenants have not been reviewed or approved by Mesa County or any governmental or quasi governmental entity. Therefore, all alterations of the property must comply with applicable zoning requirements, Mesa County Land Use Development Code, and conditions of approval by the governing municipality.

ARTICLE I DEFINITIONS

Section 1. “Agencies” shall mean and collectively refer to the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Veterans Administration (VA), and the Federal Housing Administration (FHA), or any other public, quasi-public or private entity which performs (or may perform in the future) functions similar to those currently performed by such entities.

Section 2. “Architectural Control Committee” shall mean and refer to the committee appointed by Declarant or by the Board of Directors of the Association, as more fully provided in Article V hereof.

Section 3. “Association” shall mean and refer to Deer Crossing Estates Homeowners Association, Inc., a Colorado nonprofit corporation, its successors and assigns. The Association shall act by and through its Board of Directors and officers. The fiscal year of the Association shall end on December 31 of each calendar year.

Section 4. “Declarant” shall mean and refer to Helen E. Kelley Living Trust, their successors and assigns, if such successors or assigns should acquire more than one unimproved Lot or Outlot from the Declarant for the purpose of development and resale, and said person or entity shall first be designated by Helen E. Kelley Living Trust as Declarant for said purposes by a written instrument duly recorded in the real property records of Mesa County, Colorado.

Section 5. “Declaration” shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, as the same may be amended from time to time.

Section 6. “First Mortgage” shall mean and refer to any unpaid and outstanding mortgage, deed of trust or other security instrument encumbering a Lot recorded in the records of the office of the Clerk and Recorder of the County of Mesa, Colorado, having priority of record over all other recorded liens except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments).

Section 7. “First Mortgagee” shall mean and refer to any person named as a mortgagee or beneficiary under any First Mortgage, or any successor to the interest of any such person under such First Mortgage.

Section 8. “Lot” shall mean and refer to any separate numbered lot or plot of land shown upon any recorded subdivision of the Property or any portion thereof, as the same may be amended from time to time, together with all appurtenances and improvements now or hereafter thereon, with the exception of the Common Area defined in Article I, as defined herein.

Section 9. “Dwelling Unit” shall mean and refer to any residential improvement constructed within Deer Crossing Estates Subdivision.

Section 10. “Outlot(s)” shall mean and refer to all property reserved for future development.

Section 11. “Common Area” shall mean all property owned by the Association for the Common use and enjoyment of the Members, including the pipeline irrigation system and applicable open irrigation/waste ditches within the individual Lots of the subdivision up to point of delivery. Ownership of Outlot(s) A, B and C is to be held/retained by the Declarant, and the “Common Area” within these Outlot(s) will be maintained specifically by the Declarant, with no obligation to the Deer Crossing Estates Homeowners Association.

Section 12. “Limited Common Element” refers to the underground, pipeline irrigation system depicted on the Irrigation Management Plan to Deer Crossing Estates Subdivision, which shall be exclusively regulated and maintained by the Homeowners Association, except for the portions of the system located within the Outlot(s) to be held and maintained by the Declarant, as defined in Article I of this Declaration.

Section 13. “No-Build Area” refers to the Natural Drainage/wildlife corridor, as defined on the recorded Site Plan for Deer Crossing Estates. No development of any type will be allowed within this area for at least a period of 40 years from the date of this original Declaration.

Section 14. “Member” shall mean and refer to each Owner of a Lot that is subject to assessment hereunder and Declarant. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot.

Section 15. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 16. “Property” shall mean and refer to that certain real property described in Exhibit A of this Declaration, together with such additions thereto, if any, as may hereafter be brought within the jurisdiction of the Association.

Section 17. “Special Declarant Rights” shall mean and refer to the development and other rights expressly reserved for the benefit of Declarant in accordance with the terms and conditions of this Declaration.

**ARTICLE II
PROPERTY RIGHTS IN THE COMMON AREA**

Section 1. Owner's Right of Enjoyment. Subject to the provisions of Section 2 of this Article, every Owner shall have a nonexclusive right to enjoy and use the facilities, if any, within the Common Area defined in Article I of this Declaration and such right shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Extent of Owner's Right. The right of enjoyment created hereby shall be subject to the following:

a. The right of the Association to promulgate and publish rules and regulations with which each Member shall strictly comply, including but not limited to the size of all irrigation water pumps and an irrigation water use schedule;

b. The right of the Association, as provided in its Articles and Bylaws, to suspend the voting rights of a Member for any period during which any assessment against his Lot remains unpaid and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations; and

c. The right of the Association to close or limit the use of the Common Area defined in Article I of this Declaration, while maintaining, repairing and making replacements in said Common Area.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area defined in Article I of this Declaration to the members of his family, his tenants, or contract purchasers who reside on his Lot.

**ARTICLE III
MEMBERSHIP AND VOTING RIGHTS: THE ASSOCIATION**

Section 1. Membership. Every Owner of a Lot, which is subject to assessment hereunder, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Each Lot shall be entitled to one vote and the vote for such Lot shall be exercised by the Owner or Owners as they determine.

Section 2. Directors of the Association. The affairs of this Association shall be managed by a board of one (1) director (the "Board") initially. When Declarant relinquishes control of the Board to the Owners pursuant to Section 3 below, the Board shall be managed by three (3) directors. Directors shall meet the qualifications described in the Articles of Incorporation and Bylaws of the Association.

Section 3. Declarant Control. From date of formation of the Association until the termination of Declarant's control as provided below, Declarant shall have the right to appoint and remove all members of the Board and all officers of the Association. The period of Declarant's control of the Association shall terminate upon the first to occur of sixty (60) days after conveyance of 75% of the Lots to Owners other than Declarant, two (2) years after the last conveyance of a Lot by Declarant in the ordinary course of business, or two (2) years after any right to add new Lots was last exercised. Declarant may voluntarily surrender the right to appoint and remove officers of the Association and members of the Board before termination of the period of Declarant's Control, but in that event Declarant may require, for the duration of the period of Declarant's control, that specified actions of the Association or Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective. Not later than sixty (60) days after conveyance of 25% of the Lots to Owners other than Declarant, at least one additional member of the Board will be elected by Owners other than Declarant. Not later than sixty (60) days after the conveyance of 50% of the Lots to Owners other than Declarant, not less than 33-1/3% of the members of the Board will be elected by Owners other than Declarant. Not later than the termination of the period of Declarant's control as provided above, the Owners (including Declarant) shall elect a Board of at least three (3) members, at least a majority of whom must be Owners other than Declarant or designated representatives of Owners other than Declarant and the Board shall elect the officers, with such Board members and officers to take office upon election. Within sixty (60) days after Owners other than Declarant elect a majority of the Board, Declarant shall deliver to the Association all property of the Owners and the Association held or controlled by Declarant, including without limitation those items specified in Section 303(9) of the Common Interest Act.

Section 4. Officers of the Association. The officers of this Association shall be as set forth in the Bylaws of the Association.

ARTICLE IV CONVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each owner of any Lot, including Declarant, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, (2) special assessments, and (3) reconstruction assessments, such assessments to be established and collected as hereinafter provided. The annual, special and reconstruction assessments, together with interest, late charges, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessment is made. The obligation for such payments by each Owner to the Association is an independent covenant, with all amounts due from time to time payable in full without notice (except as otherwise expressly provided in this Declaration) on demand, and without setoff or

deduction. The lien may be enforced by foreclosure of the defaulting Owner's Lot by the Association in like manner as a mortgage on real property. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, including reasonable attorney's fees. The Board of Directors or managing agent of the Association may prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Lot and a description of the Lot. Such a notice shall be signed by one of the Board of Directors or by the managing agent of the Association and may be recorded in the office of the Clerk and Recorder of the County of Mesa, Colorado. The lien for each unpaid assessment attaches to each Lot at the beginning of each assessment period and shall continue to be a lien against such Lot until paid. The costs and expenses for filing any notice of lien shall be added to the assessment for the Lot against which it is filed and collected as part and parcel thereof. Each assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. The Association's lien on a Lot for assessment shall be superior to any homestead exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said assessment lien.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the maintenance and insurance of the Common Area defined in Article I.

Section 3. Maximum Annual Assessment.

a. Until commencement of the second annual assessment period, the maximum annual assessment shall be determined by the Declarant, and shall not exceed One Hundred Fifty Dollars (\$150.00) per Lot per year.

b. Effective with commencement of the second and each subsequent Association fiscal year, the maximum annual assessment may be increased by a vote of the Members over the amount established by the applications of the provisions of Section 3(b) above for the next succeeding Association fiscal year and at the end of that year, for each succeeding Association fiscal year, provided that any such increase shall have the assent of two-thirds (2/3) of the members who are voting in person at the meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of such meeting setting forth the purpose therefore.

c. The Board of Directors of the Association may, at any time and from time to time, after consideration of the projected maintenance costs and the other financial needs of the Association, fix the actual assessment against each Lot at an amount less than the maximum assessment for any Association fiscal year.

d. Within thirty (30) days after adoption of any proposed budget for the Association, the Board of Directors shall mail, by ordinary first-class mail, or

otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after the mailing or other delivery of the summary. In the event that the proposed budget is rejected by a majority of all Owners, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

e. The limitations contained in this Section 3 shall not apply to any change in the maximum, actual and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

f. The Association shall maintain an adequate reserve fund out of the annual assessments for the repair and replacement of those elements of the Common Area defined in Article I that must be repaired or replaced on a periodic basis.

Section 4. Special Assessments. In addition to the annual and reconstruction assessments authorized in this Article IV, the Association may levy, in the Association fiscal year, a special assessment applicable to that year only, for the purpose of defraying, in whole or part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area defined in Article I, or for the funding of any operating deficit incurred by the Association. Any such assessment shall have the assent of two-thirds (2/3) of the votes of the Members who are voting in person at a meeting duly called for this purpose and shall be set equally against each Lot.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 & 4. Written notice of any meeting called for the purpose of taking any action requiring a vote of the Members authorized under Sections 3 or 4 of this Article shall be sent to all Members not less than thirty (30) days or more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members entitled to cast sixty percent (60%) of the Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding month.

Section 6. Reconstruction Assessments. In addition to the annual and special assessments authorized in this Article IV, the Association may levy a reconstruction assessment for the purpose of repair or reconstruction of damaged or destroyed improvements. All such reconstruction assessments shall be equal to the net amount of the cost of repair or reconstruction of such improvements and shall be calculated by subtracting from the total cost of repair or reconstruction the sum of the insurance proceeds awarded for the damage or destruction thereof, if any, and shall be set equally against each Lot. Such reconstruction assessments shall be due and payable as provided by resolution of the Board of Directors, but not sooner than thirty (30) days after written notice hereof; provided, however, that, in appropriate circumstances, the Association may

proceed directly against any Owner pursuant to Article VIII, Section 3 hereof for any such amount.

Section 7. Rate of Assessment. Annual and special assessments shall be fixed at a uniform rate for all Lots and shall be allocated to each Lot on the basis of a fractional share per Lot, the numerator of which fraction shall be one and the denominator of which shall be the number of Lots contained within the Property, and shall be in an amount sufficient to meet the expected needs of the Association.

Section 8. Date of Commencement of Annual Assessments. The initial annual assessment shall commence on the first day of the month following conveyance of any first Lot upon transfer of Title issued to an Owner other than Declarant, and the second and each subsequent annual assessment period shall correspond with the fiscal year of the Association. Any Owner purchasing a Lot between installment due dates shall pay a pro rata share of the last installment due.

Section 9. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within sixty (60) days after the due date thereof shall bear interest from the due date at the rate of 6 percent (6%) per annum, or at such lesser rate as may be set from time to time by the Association. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot, and in the event a judgment is obtained, such judgment shall include interest on the assessment and a reasonable attorney's fee to be fixed by the court, together with the costs of the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area defined in Article I or abandonment of his Lot.

Section 10. Working Capital Fund. The Association or Declarant shall require the first Non-Declarant Owner of any Lot to make a nonrefundable payment to the Association in an amount not to exceed One Hundred Fifty Dollars (\$150.00), all of which sums shall be held by the Association and maintained in a segregated account for the use and benefit of the Association, including but not limited to the use to meet unforeseen expenses. Such payment shall not be deemed to be prepayment of any assessment but shall be deemed a payment to the working capital fund and shall not relieve an Owner from making the regular payment of assessments as the same become due. The payment to the working capital fund shall be due on the date of the commencement of the annual assessment. Upon the transfer of his Lot, an Owner shall be entitled to a credit from his transferee (but not from the Association) for the aforesaid payment to working capital fund.

Section 11. Lien for Assessments.

a. Under the Common Interest Act, the Association has a statutory lien on a Lot for any assessments levied against that Lot and for fines imposed against its Owner from the time each assessment or fine becomes due. In addition, fees, charges, attorneys' fees, and interest charged pursuant to this Declaration or the Common Interest Act are enforceable as assessments. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

b. The statutory lien for assessments is prior to all other liens and encumbrances on a Lot except: (i) liens and encumbrances recorded before the recordation of this Declaration; (ii) a lien of a First Mortgage which was recorded before the date on which the assessment sought to be enforced became delinquent; and (iii) liens for real estate taxes and other governmental assessments or charges against the lot.

c. Recordation of any claim of lien or assessment is required, however, a claim may be recorded at the Association's option, in which event costs and attorneys' fees incurred in connection with the preparation and filing of such claim shall be assessed against the Owner's Lot as a default assessment.

**ARTICLE V
ARCHITECTURAL CONTROL COMMITTEE**

Section 1. Composition of Committee. The Architectural Control Committee ("ACC") shall consist of two (2) or more persons appointed by the Board of Directors of the Association; provided, however, that until Declarant has conveyed all Lots to Owners other than the Declarant, or until three (3) years after the date of recording of this Declaration in the office of the Clerk and Recorder of Mesa County, Colorado, whichever occurs earliest, Declarant shall appoint the ACC. A majority of the Committee may, from time to time, designate a representative to act for it. The power of the Declarant to "appoint", as provided herein, shall include without limitation the power to: initially constitute the membership of the ACC, appoint member(s) to the ACC upon the occurrence of any vacancy therein, for whatever reason, remove any member of the ACC, with or without cause, at any time, and appoint the successor thereof; and each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the Declarant. All improvements within the Property constructed by Declarant during the period in which it appoints the ACC shall be deemed approved by the Committee without the issuance of any writing evidencing such approval. Architectural Control Guidelines must be generally adhered to as provided for in the Architectural Control packet.

Section 2. Review by Committee. No landscaping, structure or any attachment to an existing structure, any building including non-commercial agricultural buildings, arenas, fences, walls, canopies, awnings, roofs, exterior lighting facilities, other similar improvements or attachments, shall be constructed, erected, placed or installed upon the Property and no alteration of the material or appearance (including color) of the exterior of a residence or other structure shall be made, and no change in the final grade of any Lot shall be performed, unless copies of plans and specifications therefore (said plans and specifications to show exterior design, height, colors, materials, location of the landscaping or structure or addition to the structure, as well as such other materials and information as may be required by the Committee) shall have been first submitted to and approved in writing by the ACC. The plans and specifications so submitted shall comply in all respects with the applicable building and zoning regulations of the County of Mesa and of Deer Crossing Estates Subdivision. All structures will be no more than (1) one story in height and residence shall be a minimum of 1,500 square feet. No structure shall exceed 25 feet in finished elevation. Roof pitch for all residences shall have at least a 4/12 minimum unless approved residence is mission style. The exterior finish shall be stucco, brick, masonry or other similar material and the finish shall be “earth tone” colors that blend in with the surrounding area. No wood lap, masonite, vinyl or other low or maintenance free siding will be allowed. At least 25% of the front of the residence shall have some type of rock, cultured stone or other similar product. Roof material shall consist of composition shingles, concrete or tile shingles. If composition shingles are used, they must be of the architectural type (not standard 3 tab). No metal or wood shake roofs are permitted. All homes within the development will be required to attain an Energy Star Rating. Certain lots, Lots 3, 5, 6 and 7, will be required to place a fence in certain areas of the property. This fence is required to protect other areas within the subdivision from damage and to keep the lots separate from nearby farming operations and wildlife areas. The required fence shall be a minimum of 4’ in height unless a split-rail type fence is used. Fences on the lots can be of any common fencing material. Any fencing material that is not maintenance free e.g.: wood, split-rail, etc. shall be maintained with stains, oils or paint at least every year to keep the fences looking as new as possible. Fences may be solid, semi-private, 2/3 rail or open panel and can be constructed of either metal, wood or masonry. Any fence that is installed will need to meet Mesa County Building Code standards. The ACC shall exercise its reasonable judgment to the end that all attachments, improvements, construction, landscaping and alterations to residences, other structures, and property, within the property, conform to and harmonize with the existing surroundings, residences, landscaping and structures. Notwithstanding the foregoing, no Owner shall have the right to materially alter or modify the original grading installed by Declarant within the Common Area defined in Article I of this Declaration; provided, however, that the foregoing prohibition shall not prevent the repair and maintenance of the same. All owners are encouraged to apply xeriscape principles to their landscaping plans in recognition of the soils, climate and source of irrigation water associated with Deer Crossing Estates Subdivision.

Section 3. Procedures. The ACC shall review all requests for architectural control approval within thirty (30) days. In the event that the ACC fails to approve or

disapprove any request within thirty (30) days approval shall not be required and this Article shall be deemed to have been fully complied with.

Section 4. Vote and Appeal. A majority vote of the ACC is required to approve a request for architectural approval pursuant to this Article. An Owner may appeal the decision of the ACC to the Board of Directors if the Board is composed of different members than the ACC, and, in such event, the decision of the Board shall be final.

Section 5. Records. The ACC shall maintain written records of all applications submitted to it and all actions taken by it thereon, and such records shall be available to Members for inspection at reasonable hours of the business day.

Section 6. Liability. The ACC and the members thereof shall not be liable in damages to any person submitting requests for approval or to any Owner, by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder.

Section 7. Variance. The ACC may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article or elsewhere in this Declaration, in order to overcome practical difficulties and prevent unnecessary hardships arising by reason of the application of the conditions and restrictions contained in the Article or elsewhere in this Declaration. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or improvements in the neighborhood and shall not militate against the general intent and purpose hereof.

Section 8. Waivers. The approval or consent of the ACC to any application for architectural approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Committee as to any application or other matters whatsoever subsequently or additionally submitted for application or consent hereunder.

ARTICLE VI EXTERIOR MAINTENANCE

Section 1. General. Except as otherwise provided herein, the maintenance and repair of each Lot, including but not limited to landscaping, the interior and exterior of the residence, improvements constructed thereon, irrigation systems installed by Owner from point of delivery to Lot, and any fence shall be the responsibility of the Owner(s) thereof.

Section 2. Maintenance of Common Area. To the extent not performed by the applicable governmental entity or Owner, the Association shall be responsible for the maintenance of the Common Area(s) defined in Article I of this Declaration, including the irrigation line and equipment. No Owner shall, in whole or in part, change the grade on any portion of the Common Area. The Association reserves the right to hire an individual and/or individuals to assist with maintenance of the Common Area should the Association be unable to perform these tasks within the Association and that any costs incurred with such maintenance shall be incorporated, to be shared by all Owners, and made part of the annual assessment.

Section 3. Owner's Negligence. Notwithstanding anything to the contrary contained in this Article VI, in the event that the need for maintenance or repair of the Common Area defined in Article I of this Declaration, is caused by the willful or negligent act or omission of any Owner, or by the willful or negligent act or omission of any member of such Owner's family or by a guest or invitee of such Owner, the cost of such repair or maintenance shall be personal obligation of such Owner, and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction shall be added to and become a lien against such Owner's Lot as provided in Article IV of this Declaration. A determination of the negligence or willful act or omission of any Owner or any member of an Owner's family or a guest or invitee of any Owner, and the amount of the Owner's liability therefore, shall be determined by a court of law.

ARTICLE VII RESTRICTIONS

Section 1. General Plan. It is the intention of the Undersigned to establish and impose a general plan for the improvement, development, use and occupancy of the Property, in order to enhance the value, desirability, and attractiveness of the Property and to promote the sale thereof.

Section 2. Restrictions Imposed. The Undersigned hereby declares that all of the Property shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon, and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements, and covenants, as well as those contained elsewhere in this Declaration.

Section 3. Use of Common Area.

a. No use shall be made of the Common Area defined in Article I, which will in any manner violate the statutes, rules, or regulations of any governmental authority having jurisdiction over the Common Area.

b. No Owner shall engage in any activity which will temporarily or permanently deny free access to any part of the Common Area defined in Article I to all Members, nor shall any Owner place any structure or fence, except those installed by

Declarant or the Undersigned, whatsoever upon the Common Area.

c. The use of the Common Area defined in Article I shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors of the Association.

Section 4. Land Use and Building Type. Subject to Section 5 of this Article VII, Lots shall be used for residential and non-commercial agricultural purposes only, including all ancillary uses permitted by applicable zoning ordinances. Any home business that requires increased vehicle and foot traffic on a daily basis (such as a day care center) is prohibited.

Section 5. Animals and Livestock, Household Pets. Animals and livestock are permitted per Mesa County Guidelines. No animal may be kept on any Lot which is a nuisance to other Owners or which runs at large. Household pets are allowed and shall be contained on the Owner's property pursuant to Mesa County Regulations.

Section 6. Agricultural Practices. Agricultural practices such as weed burning, ground spraying, fertilizing, field preparation and other practices pertaining to agricultural management shall be allowed on the Lots. Lots must be kept according to acceptable agricultural practice, including control of weeds and insects. The Owner and residents of any Lot shall not in any way interfere with normal agriculture practices on properties which adjoin or are in the vicinity of the Lot including interference with irrigation and, pursuant to the State of Colorado Right to Farm Act (C.R.S. 1973-35-3.5-1-1).

Section 7. Lots to be Maintained. Except during any period of construction or reconstruction, each Lot at all times shall be kept in a clean, sightly, and wholesome condition. No trash, litter, junk, boxes, containers, bottles, cans, lumber, or other building materials shall be permitted to remain exposed for an extended period of time, however, each Lot Owner may store a limited amount of farm equipment which is needed for maintenance and upkeep of each Lot. Lots are to be maintained in compliance with Mesa County Policies regarding junk storage and weed management.

Section 8. Temporary Structures. Except as hereinafter provided, no structure of a temporary character, including but not limited to a tent, shack, or outbuilding shall be placed or erected upon any Lot, and no residence shall be occupied in any manner at any time prior to receiving a Mesa County Certificate of Occupancy. However it is provided for that during the actual construction of a home a temporary mobile residence (i.e. RV, 5th wheel) will be allowed and must be vacated and used for recreation purposes only immediately upon issuance of a Certificate of Occupancy. In the case of alteration, repair or remodeling of a residence, necessary temporary structures for storage of materials may be erected and maintained by the person doing such work. The work of constructing, altering or remodeling any residence shall be pursued diligently from the commencement thereof until the completion thereof, not to exceed twelve (12) months. A time extension may be granted with the approval of the Board.

Section 9. Miscellaneous Structures.

a. No advertising or signs of any character shall be erected, placed, permitted, or maintained on any Lot other than a name plate of the occupant and a street number, and except for a "For Sale" or "For Rent" sign not to exceed five (5) square feet; notwithstanding the foregoing, signs, advertising, or billboards used by the Declarant or its designees in connection with the sale or rental of Lots, or otherwise in connection with any development of the Property, shall be permissible, provided that such use by the Declarant or its designees shall not unreasonably interfere with any Owner's use and enjoyment of his Lot, the Common Area, or with such Owner's ingress or egress from a public way to the Common Area or his Lot.

b. Except as may otherwise be permitted by the ACC, any antennae that is designed and capable of being utilized in attic or roof sections as to conceal the antennae should be installed in this type of location. For satellite dishes, care shall be given to the mounting locations of such dish so as to minimally affect the aesthetic value of the neighborhood.

c. Any accessory building shall be subject to the review of the ACC and maintained per ACC guidelines.

Section 10. Housing. All structures shall be stick built construction, built onsite. No mobile, modular (including UBC/IBC) or manufactured housing shall be allowed.

Section 11. Vehicular Parking, Storage and Repairs/Screening. Except as hereinabove provided, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked on or within the Property. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, boat, trailer, camper, house trailer, self-contained motorized recreational vehicle, or other similar vehicle, which has not been driven under its own propulsion for a period of two (2) years or longer, or which does not have an operable propulsion system installed therein; provided, however, that otherwise permitted vehicles parked by Owners while on vacation or during a period of illness shall not constitute abandoned or inoperable vehicles. In the event the Association shall determine that a vehicle is an abandoned or inoperable vehicle, then a written notice describing said vehicle shall be personally delivered to the Owner thereof if such Owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the Owner thereof cannot be reasonably ascertained), and if the abandoned or inoperable vehicle is not removed within sixty (60) days thereafter, the Association shall have the right to petition Mesa County to remove the vehicle pursuant to Mesa County guidelines.

Section 12. Nuisances. No nuisance shall be permitted in violation of Mesa County Nuisance Ordances.

Section 13. Lots Not to be Subdivided. Lots 1-7 shall not be subdivided, except for the purpose of combining portions with an adjoining Lot, provided that no additional building site is created thereby.

Section 14. Underground Utility Lines. All electric, television, radio, and telephone line installments shall be placed underground, except that during the construction of any residence the contractor or builder may install a temporary overhead utility line which shall be promptly removed upon completion of construction.

Section 15. No Hazardous Activities. No activities shall be conducted on the Property or within improvements constructed on or within the Property which are or might be unsafe or hazardous to any person or property as determined by a Court of Law.

Section 16. No Annoying Light, Sounds or Odors. No lighting fixtures may be installed or maintained that are not in compliance with Mesa County's 7.6.7 Nighttime Light Pollution standards. No sound shall be emitted from any Lot which is noxious or offensive to others. Mesa County Guidelines shall be followed.

Section 17. Garbage and Refuse Disposal. No garbage, refuse, rubbish, or cuttings shall be deposited on any street, the Common Area defined in Article I, or any Lot, unless placed in a suitable container suitably located, solely for the purpose of garbage pickup. All containers shall be removed from the street the same day. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trash cans or receptacles shall be maintained in an unsightly manner.

Section 18. Leases. The term "lease", as used herein, shall include any agreement for the leasing or rental of a Lot or any portion thereof. Any Owner shall have the right to lease his Lot under the following conditions:

- a. All leases shall be in writing;
- b. All leases shall provide that the terms of the leases and lessee's occupancy of the Lot shall be subject in all respects to the provisions of this Declaration, and the Articles of Incorporation, Bylaws and rules and regulations of the Association, and that any failure by the lessee to comply with any of the aforesaid documents, in any respect, shall be default under the lease; and
- c. No lease shall be for less than six (6) months.

Section 19. Rules and Regulations. Rules and regulations concerning and governing the Property or any portion thereof may be adopted, amended or repealed, from time to time by the Board of Directors.

Section 20. Management Agreement and Other Contracts.

a. The Association may utilize professional management in performing its duties hereunder. Any agreement for professional management of the Association's business or any contract providing for the services of Declarant shall have a maximum term of three (3) years and shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon thirty (30) days prior written notice.

b. Subject to Article VII, Section 18(a) hereof, any contracts, licenses or leases entered into by the Association while the Declarant controls the Association shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, at any time after termination of the Declarant's control or the Association, upon thirty (30) days prior written notice.

c. Notwithstanding anything to the contrary contained in this Section 18, the Association may enter into contracts, licenses and leases in violation of Section 18(b) hereof upon a waiver of any requirements contained herein by the Federal National Mortgage Association.

Section 21. No Mining or Drilling. No mining, drilling, quarrying, digging or excavating for the purpose of testing for the existence of, or extracting oil, gas, coal or minerals of any kind shall be performed upon or within the Property.

Section 22. Irrigation. Irrigation water from Grand Valley Water Users Association is appurtenant to the land and cannot be sold off or separated from said land. A total of 24 Class One Water Righted Acres are available. The Deer Crossing Estates Home Owners Association will retain the equivalent of 3.5 Class One Water Righted Acres and the Helen E. Kelley Living Trust will retain the equivalent of 20.5 Class One Water Righted Acres. The Homeowners Association will establish a watering schedule, alternating every other day for one half of the subdivision and then the other and has exclusive rights to control the irrigation system within the subdivision. Water will be available at any time for the Outlots held by the Helen E. Kelley Living Trust to continue farming operations. Lot Owners have the right to, but are not required to, install a cistern for water storage if they wish to do so. No drainage may be altered or changed that will effect any lot or parcel either above or below homeowners property.

Section 23. Drainage. Release of contaminants or hazardous materials into the Subdivision drainage is prohibited and the Association shall indemnify and hold harmless Grand Valley Water Users Association from any such contamination.

Section 24. Geotechnical Requirements. Prior to commencement of the construction of any improvements on any Lot the owner of such Lot shall provide the ACC with plans for an engineered foundation certified by a Colorado licensed engineer. Written confirmation of compliance of any subdivision geotechnical requirements from a licensed engineer shall be submitted to the ACC for review and approval.

Section 25. Fencing. All fencing shall be subject to the prior approval of the ACC and shall meet the County of Mesa requirements for a fence permit.

Section 26. Noxious Weeds. Each Lot Owner shall control noxious weeds on such Owner's Lot and any Limited Common Elements which are dedicated for the benefit of such Lot Owner. The Association shall control noxious weeds on all Common Area.

Section 27. Work in Road System Right of Way. All work in the road system right of way requires a Surface Alteration Permit issued by the jurisdiction administering the road system, and no alteration is to be done to the roadside ditches without the proper authorization.

ARTICLE VIII FIRST MORTGAGES

Section 1. Member and First Mortgagee Approval. The Association shall not unless it has obtained the prior written consent of at least sixty-seven percent (67%) of the Members and sixty-seven percent (67%) of the First mortgagees (based upon one vote for each First Mortgage owned);

- a. by act or omission, change, waive, or abandon any scheme of architectural control, or enforcement thereof, as set forth in this Declaration, regarding the design or maintenance of the Lots, improvements thereon or the Common Area;
- b. fail to maintain full current replacement cost fire and extended insurance coverage on the Common Area defined in Article I of this Declaration;
- c. use hazard insurance proceeds for Common Area defined in Article I losses for purposes other than to repair, replace, or reconstruct such property;
- d. by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer any common property owned, directly or indirectly, by the Association for the benefit of the Owners (excluding the granting of permits, licenses and easements for public utilities, roads, or other purposes reasonably necessary or useful for the proper maintenance or operation of the Property or the Association);
- e. change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner;
- f. add or amend any material provisions of this Declaration, the Articles of Incorporation or Bylaws of the Association which establish, provide for, govern or regulate any of the following, provided that any First Mortgagee who receives a written request to approve any additions or amendments to any of such documents and who does not deliver or post to the requesting party a negative response within thirty (30) days after receipt of such a request shall be deemed to have approved such request, and provided that such additions or amendments shall not be considered material if they are for the purpose of correcting technical errors or for clarification only, the Articles of Incorporation or Bylaws of the Association made as a result of destruction, damage or condemnation of the Property or the improvements thereon;

- (1) voting;
- (2) assessments, assessment liens or subordination of such
liens;
- (3) reserve for maintenance, repair and replacement of those
elements of the Common Area defined in Article I which must be maintained, repaired or
replace on a periodic basis;
- (4) insurance;
- (5) rights to use of the Common Area defined in Article I;
- (6) responsibility for maintenance and repair of any portion of
the Property;
- (7) expansion or contraction of the Property or the addition,
annexation or withdrawal of property to or from the Property;
- (8) interests in the Common Area defined in Article I;
- (9) convertibility of Lots or dwellings constructed thereon;
- (10) leasing of Lots or dwellings constructed thereon;
- (11) imposition of any right of first refusal or similar restriction
on the right of any Owner to sell, transfer or otherwise convey his Lot;
- (12) any provisions which are for the express benefit of First
Mortgagees, or insurers or guarantors of First Mortgages;

g. restore or repair the Common Area defined in Article I, or any
portion thereof, including but not limited to improvements located thereon, after a partial
condemnation or damage due to any insurable hazard, other than substantially in
accordance with this Declaration and the most recent plans and specifications for the
Common Area and the construction of improvements thereon;

Section 2. Notice of Action. Upon written request to the Association, identifying
the name and address of the First Mortgagee or insurer or guarantor of the First Mortgage
and the residence address of property which is subject to such First Mortgage, each such
First Mortgage or insurer or guarantor of such a First Mortgage, shall be entitled to timely
written notice of:

a. any condemnation loss or casualty loss which affects a material
portion of the Property or any Lot subject to a First Mortgage held, insured or guaranteed
by such First Mortgagee, insurer or guarantor of a First Mortgage;

b. any delinquency in the payment of assessments or charges owed to

the Association by the Owner of the Lot subject to a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or guarantor, or any default by such Owner in any obligation under the Declaration, Articles of Incorporation or Bylaws of the Association and the Board of Directors of the Association has actual knowledge of such default, when such delinquency and/or default remains uncured for a period of sixty (60) days;

c. any lapse, cancellation or material modification of any insurance policy maintained by the Association;

d. any proposed action which would require the consent of a specified percentage of First Mortgagees as provided in this Article VIII.

ARTICLE IX GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws or rules and regulation of the Association, as amended, shall be by any proceeding at law or in equity against any person or persons, including without limitation the Association, violating or attempting to violate any such provision. The Association and any aggrieved Owner shall have the right to institute, maintain and/or prosecute any such proceedings. The prevailing party shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by the Court. Failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any of the covenants, restrictions or other provisions contained in this Declaration by judgment or court order shall in no way affect or limit any other provisions which shall remain in full force and effect.

Section 3. Easements. Easements for the installation and maintenance of utilities, irrigation and drainage facilities are reserved as shown on the recorded plat of the Property, or any portion thereof, or other duly recorded instrument(s). Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements. Declarant hereby reserves the right to enter upon the Property to correct any flow of water and to establish and re-establish drainage channels.

Section 4. Conflict of Provisions. In case of any conflict between this Declaration, the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.

Section 5. Expansion. Declarant does reserve the developmental right to expand the Property to include additional Lots within the Outlot(s) reserved for future development. Expansion can only occur when the Mesa County Master Plan is amended to allow a higher density within the area of Mesa County in which Deer Crossing Estates Subdivision lies. Any additional Lots created would become a part of Deer Crossing Estates and would be subject to all Covenants, Conditions and Restrictions as set forth in this original Declaration and any and all subsequent Amendments.

Section 6. Duration, Revocation, and Amendment.

a. Each and every provision of this Declaration shall run with and bind the land for a term of twenty (20) years the date of recording of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. Except as provided in Article VIII hereof and in Subsections (b) and (c) of this Section 6, this Declaration may be amended during the first twenty (20) year period, and during subsequent extensions thereof, by any instrument approved in writing by not less than sixty-seven percent (67%) of the Members. Such amendment shall be effective when duly recorded in Mesa County, Colorado.

b. If Declarant shall determine that any amendments to this Declaration or any amendments to the Articles of Incorporation or Bylaws of the Association shall be necessary in order for existing or future mortgages, deeds of trust or other security instruments to be acceptable to any of the Agencies, Declarant shall have and is hereby specifically granted the right and power to make and execute any such amendments without obtaining the approval of any Owners or First Mortgagees. Each such amendment of this Declaration or of the Articles of Incorporation or Bylaws shall be made, if at all, by Declarant prior to termination of the Declarant's control or the Association.

c. Declarant hereby reserves and is granted the right and power to record technical amendments to this Declaration, Articles of Incorporation or Bylaws of the Association at any time prior to the termination of Declarant's control or the Association, for the purposes of correcting spelling, grammar, dates, typographical errors, or as may otherwise be necessary to clarify the meaning of any provisions of any such document.

Section 7. Rights of Declarant Incident to Construction. An easement is hereby retained by and granted to Declarant, its successors and assigns, for access, ingress and egress over, in, upon, and across the Common Area defined in Article I, including but not limited to the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to Declarant's or its designees' construction the Property; provided, however, that no such rights or easements shall be exercised by Declarant in such a manner as to unreasonably interfere with the occupancy, use, enjoyment, or access by any Owner, his family members, guests, or invitees, to or of that Owner's Lot. Declarant, for itself and its successors and assigns, hereby retains a right to store construction materials on Lots owned by Declarant and to make such other use thereof as may be reasonably necessary or incidental for the purpose of completion or

improvement of the Property, the performance of Declarant's obligations hereunder, and the sale of the Lots. Any special Declarant rights created or reserved under this Article or elsewhere in this Declaration for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in the office of the Clerk and Recorder for the County of Mesa. The rights of Declarant reserved in this Section 6 shall expire five (5) years after the recording of this Declaration. Such instrument under this Declaration shall expire on the date which is ten (10) years from the recording date of this Declaration, unless otherwise provided herein.

Section 8. Easement for Encroachments. If any portion of a structure encroaches upon the Common Area defined in Article I or upon any adjoining Lot, or if any portion of the Common Area encroaches upon any Lot, including any future encroachments, arising or resulting from the repair or reconstruction of a structure subsequent to its damage, destruction or condemnation, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does not exist.

Section 9. Registration by Owner of Mailing Address. Each Owner shall register his mailing address with the Association, and except for statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal as of the day and year first above written.

Helen E. Kelley, Managing Member

Mike Kelley, Managing Member

EXHIBIT A

BEG S 00DEG23'31SEC W 10FT FR N 1/16 COR SECS 34 & 33 2N 3W S
00DEG23'31SEC W1118.69FT N 76DEG43'36SEC E 678.18FT S
00DEG23'31SEC W 340FT N 89DEG56'18SEC E657.26FT N 00DEG23'31SEC
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