

## Restrictive Covenant

This Restrictive Covenant (this "Covenant") is entered into and granted as of <sup>December</sup> November 7, 2001, by The Bailey Family Investment Company, a Colorado limited liability limited partnership ("Bailey"), whose address is 620 East Cooper, Aspen, CO 81611, Attention: Thomas H. Bailey, for the benefit of Ranch at Roaring Fork Homeowners Association, Inc., a Colorado non-profit corporation ("RARF"), whose address is 14913 Highway 82, Carbondale, CO 81623.

## Recitals

A. Bailey is the owner of real property described on Exhibit A attached hereto (the "Property"), which it acquired from RARF pursuant to a Purchase and Sale Agreement between the parties dated as of June 29, 2001 (the "Purchase Agreement");

B. RARF is the owner of adjacent real property described in the plat of Roaring Fork Ranch Phase III recorded in the office of the Garfield County Clerk and Recorder in Book 3 at page 106, as amended by the Partial Amended and Boundary Correction Plat, Ranch at Roaring Fork Phase III Common Recreational Reserve and Homestead Reserve recorded as Reception No. 495057 and the Second Amended Plat of Ranch at Roaring Fork Phase III Common Recreational Reserve and Homestead Reserve recorded as Reception No. 593079 (the "Common Recreation Reserve");

C. Pursuant to the Purchase Agreement, Bailey has agreed to execute this Restrictive Covenant so as to limit the use of the Property in the manner described herein for the benefit of RARF and the Common Recreation Reserve;

## Covenant

FOR VALUE RECEIVED, Bailey hereby covenants and agrees as follows:

1. The Property shall be used and developed solely for the following uses: (a) open agricultural purposes such as grazing, pasturing, feeding and watering livestock; growing, harvesting and baling hay, straw and other crops; fishing, horseback riding and other low impact, non-motorized recreational activities; (b) the construction, use, operation, repair, maintenance and replacement of (i) underground utilities and necessary surface appurtenances, (ii) primitive farm access roadways, (iii) irrigation ditches and appurtenant structures, (iv) livestock fencing, and (v) livestock shade structures and loafing sheds; and (c) similar uses that are consistent with open agricultural use of the Property and are not inconsistent with the express prohibitions of this Covenant.

2. Except as permitted in paragraphs 1(b)(i) and (v) of this Covenant, no structure that requires a building permit shall be constructed upon the Property without the prior, written consent of Seller, which shall not be unreasonably withheld, conditioned or delayed; provided, however, that in making its determination under this paragraph 2, RARF may consider whether the proposed structure is consistent with the other use restrictions contained herein.

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Return to: J. Baet Johnson  
O'Hen, Johnson, Robinson, Neff +  
Ragonetti PC  
112 N. 1st St, #C  
Aspen CO 81611



3. No commercial mining, drilling or quarrying for hydrocarbons, minerals, sand, gravel, or earth shall be conducted upon the Property without the prior, written consent of RARF, which may be withheld or conditioned at its sole discretion.

4. This Covenant shall run with the Property for the benefit of the Common Recreation Reserve, and will be binding upon Bailey and its successors and assigns for the benefit of RARF and its successors and assigns, in perpetuity, unless: (a) this Covenant is terminated by a written instrument duly executed by RARF (at its sole discretion) and recorded in the office of the Garfield County Clerk and Reorder; or (b) Bailey grants a permanent conservation easement that imposes substantially the same restrictions upon the Property as are contained in this Covenant, and such easement is recorded in the office of the Garfield County Clerk and Recorder.

5. No provision of this Restrictive Covenant may be waived or modified except in a writing duly executed by RARF and recorded in the office of the Garfield County Clerk and Reorder. The failure to enforce this Restrictive Covenant on one or more occasions shall not act as a waiver or release of any provision hereof, nor shall it act as an estoppel against or other impediment to the enforcement of this Restrictive Covenant against the continuance of a violation or any subsequent violation.

WHEREFORE, Bailey has executed this Restrictive Covenant as of the day and year first above written.

**The Bailey Family Investment Company,**  
a Colorado limited liability limited partnership

By: Thomas H. Bailey  
Thomas H. Bailey, General Partner

STATE OF COLORADO )  
 ) ss.  
City AND COUNTY OF Denver )

The foregoing instrument was acknowledged before me on 10/25, 2001, by Thomas H. Bailey, as general partner of The Bailey Family Investment Company, a Colorado limited liability limited partnership.

Witness my hand and official seal.

My commission expires: 5/19/02



Darlene A. Trujillo  
Notary Public



EXHIBIT A  
TO RESTRICTIVE COVENANT  
LEGAL DESCRIPTION

A PARCEL OF LAND SITUATED IN GOVERNMENT LOTS 10, 14, 15, AND 16, SECTION 26, TOWNSHIP 7 SOUTH, RANGE 88 WEST OF THE SIXTH PRINCIPAL MERIDIAN, GARFIELD COUNTY, COLORADO, SAID PARCEL IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 26, A BUREAU OF LAND MANAGEMENT ALUMINUM MONUMENT IN PLACE; THENCE NORTH  $57^{\circ} 56' 30''$  WEST, A DISTANCE OF 903.80 FEET TO A POINT ON THE WESTERLY BOUNDARY OF GOVERNMENT LOT 12, SAID POINT BEING ALSO THE SOUTHWESTERLY CORNER OF THE PARCEL OF LAND DESCRIBED IN THE DOCUMENTS RECORDED IN BOOK 1134 AT PAGE 765 AND BOOK 1134 AT PAGE 769 OF THE OFFICIAL RECORDS FOR GARFIELD COUNTY, COLORADO, THIS POINT BEING THE TRUE POINT OF BEGINNING; THENCE EASTERLY ALONG THE SOUTHERLY BOUNDARY OF SAID PARCEL THE FOLLOWING, SOUTH  $85^{\circ} 48' 48''$  EAST, A DISTANCE OF 1289.52 FEET; SOUTH  $83^{\circ} 46' 28''$  EAST, A DISTANCE OF 49.07 FEET; THENCE NORTHERLY ALONG THE EASTERLY BOUNDARY OF SAID PARCEL, NORTH  $01^{\circ} 42' 54''$  EAST, A DISTANCE OF 140.16 FEET TO THE SOUTHWESTERLY CORNER OF THE PARCEL OF LAND DESCRIBED IN THE DOCUMENT RECORDED IN BOOK 1029 AT PAGE 136 OF THE OFFICIAL RECORDS FOR GARFIELD COUNTY, COLORADO; THENCE EASTERLY ALONG THE SOUTHERLY BOUNDARY OF SAID PARCEL, SOUTH  $89^{\circ} 11' 48''$  EAST, A DISTANCE OF 514.37 FEET TO THE SOUTHEASTERLY CORNER THEREOF, (SAID CORNER BEING MARKED WITH A 5/8" STEEL ROD AND YELLOW PLASTIC CAP INSCRIBED LS 19598); THENCE NORTHERLY ALONG THE EASTERLY BOUNDARY THEREOF, NORTH  $11^{\circ} 57' 49''$  EAST, A DISTANCE OF 116.00 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF COLORADO STATE HIGHWAY NO. 82; THENCE EASTERLY ALONG SAID SOUTHERLY HIGHWAY RIGHT-OF-WAY, SOUTH  $72^{\circ} 51' 30''$  EAST, A DISTANCE OF 1130.60 FEET; SOUTH  $74^{\circ} 33' 00''$  EAST, A DISTANCE OF 256.45 FEET, (SAID CORNER IS MARKED BY A WITNESS CORNER THAT IS SOUTH  $83^{\circ} 10' 34''$  WEST, A DISTANCE OF 7.34 FEET OF THE TRUE CORNER, A 5/8" STEEL ROD WITH YELLOW PLASTIC CAP INSCRIBED BUETTNER 13166 WC); THENCE DEPARTING SAID HIGHWAY RIGHT-OF-WAY SOUTH  $83^{\circ} 10' 34''$  WEST, A DISTANCE OF 102.02 FEET, (SAID CORNER IS MARKED BY A 5/8" STEEL ROD WITH YELLOW PLASTIC CAP INSCRIBED BUETTNER 13166); THENCE SOUTH  $64^{\circ} 30' 55''$  WEST, A DISTANCE OF 519.49 FEET, (SAID CORNER IS MARKED BY A 5/8" STEEL ROD WITH YELLOW PLASTIC CAP INSCRIBED BUETTNER 13166);



THENCE NORTH  $75^{\circ} 33' 11''$  WEST, A DISTANCE OF 465.52 FEET, (SAID CORNER IS MARKED BY A  $5/8''$  STEEL ROD WITH YELLOW PLASTIC CAP INSCRIBED BUETTNER 13166);  
THENCE NORTH  $87^{\circ} 07' 53''$  WEST, A DISTANCE OF 333.43 FEET, (SAID CORNER IS MARKED BY A  $5/8''$  STEEL ROD WITH YELLOW PLASTIC CAP INSCRIBED BUETTNER 13166);  
THENCE NORTH  $81^{\circ} 16' 54''$  WEST, A DISTANCE OF 537.89 FEET, (SAID CORNER IS MARKED BY A  $5/8''$  STEEL ROD WITH YELLOW PLASTIC CAP INSCRIBED BUETTNER 13166);  
THENCE NORTH  $81^{\circ} 15' 05''$  WEST, A DISTANCE OF 1334.71 FEET TO A POINT ON THE WESTERLY BOUNDARY OF SAID GOVERNMENT LOT 12, (SAID CORNER IS MARKED BY A WITNESS CORNER THAT IS SOUTH  $81^{\circ} 15' 05''$  EAST, A DISTANCE OF 6.95 FEET OF THE TRUE CORNER, A  $5/8''$  STEEL ROD WITH YELLOW PLASTIC CAP INSCRIBED BUETTNER 13166);  
THENCE NORTHERLY ALONG SAID WESTERLY LOT BOUNDARY NORTH  $00^{\circ} 03' 12''$  WEST, A DISTANCE OF 72.92 FEET TO THE TRUE POINT OF BEGINNING.