

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made and entered into as of the 5th day of December, 1994, by and between **DEERWOOD RANCHES LIMITED LIABILITY COMPANY**, a Colorado limited liability company ("Grantor"), whose address is One Tabor Center, Suite 2500, 1200 - 17th Street, Denver, Colorado 80202 and **DEERWOOD SERVICE COMPANY, LLC**, a Colorado limited liability company ("Grantee"), whose address is One Tabor Center, Suite 2500, 1200 - 17th Street, Denver, Colorado 80202.

RECITALS

Grantor has subdivided certain real property in Routt County, Colorado under the Deerwood Ranches, the plat of which has been recorded in File No. 12095 of the real property records of Routt County, Colorado (the "Plat"). Grantee has agreed to operate a private water system owned by Grantee to pump, treat and distribute water to users within Deerwood Ranches who enter into contracts with Grantee for such service. Grantor desires to provide for the availability of water service to users within Deerwood Ranches, and has agreed to grant easements to Grantee for such water system.

In consideration of the foregoing recitals, the promises and covenants contained herein, \$10 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Grantor hereby sells and conveys to Grantee, its successors and assigns, perpetual, non-exclusive easements (the "Easements") (i) on, above, beneath and within each area shown, noted or otherwise designated on the Plat as a utility easement (including the utility easement within the Open Space) to construct, reconstruct, operate, use maintain, repair, replace and/or remove a water system and all the components thereof (the "Water System"), including without limitation, wells, casings, pumps, valves, tanks, treatment facilities, switches, pipes, mains, meters, hydrants, power facilities and controls, (ii) within the area shown on the Plat as Lake and Recreation Easement for the purposes of collecting and storing water for augmentation use in connection with the Water System, and (iii) within each area shown, noted or otherwise designated on the Plat as an access easement, including the access and utility easement recorded in Book 703 at Page 1512, Private Drive Easements and Trail Easements for access to and from the Water System and all existing and future components thereof and for access in connection with construction, reconstruction, operation, use, maintenance, repair, replacement and/or removal of components of the Water System. The grant of the Easements contained herein is intended as a bargain and sale conveyance, without covenants of warranty, but which shall include any after-acquired title of the Grantor. The Easements and use of the Water System are not limited to the property shown on the Plat.

2. The Easements are perpetual, irrevocable and non-exclusive. Grantor hereby reserves and retains for its benefit and the benefit of Grantor, its successors and assigns, the

right to use those portions of the property shown on the Plat which are subject to the Easements for any purpose not inconsistent with the purposes of the Easements. The Easements shall be a perpetual burden on those parcels shown on the Plat on which the Easements are located, and shall be binding on all successors in title. The Easements or any portion thereof may be vacated, abandoned, or merged, in whole or in part, only by a recorded written instrument executed by Grantee specifically stating the portion of the Easement(s) which is vacated, abandoned or merged. The Easements may be modified in whole or in part by recorded written instrument executed by Grantee and the then current owner of the property on which the modified portion of the Easement(s) in question are located.

3. Promptly after completion of any work within the Easements for which Grantee is responsible, Grantee shall restore any area damaged by Grantee's work to its condition immediately prior to the initiation of such work, except as necessarily modified to accommodate Grantee's work.

4. Grantor shall not construct improvements or take other action within the Easements that restricts Grantee's reasonable access to the Easements and the Water System therein, and shall promptly repair any damage to the Water System resulting from actions by Grantor within the Easements.

5. Grantee shall have the right to enter upon the property subject to the Easements to survey, construct, reconstruct, operate, use, maintain, repair, replace and remove Water System improvements within the Easements and to remove objects interfering therewith. In addition, Grantee shall have the right to use so much of the property adjoining the Easements during surveying, construction, reconstruction, use, maintenance, repair, replacement and/or removal as may be reasonably required. Grantee shall have and exercise the right of adjacent and lateral support to whatever extent is necessary or desirable for the operation and maintenance of the Water System within the Easements.

6. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties. This Agreement shall not be interpreted for or against any party based on participation in drafting or similar rules of construction. No provision of this Agreement may be waived except by an instrument in writing signed by the party to be charged with the waiver. No waiver shall be a continuing waiver unless so stated in the instrument of waiver. The provisions of this Agreement which contemplate performance other than the payment of money may be enforced by injunctive relief, specific performance or similar means. Each of the parties agrees to execute and deliver such further documents and to take such further actions as may be reasonably requested by any other party to carry out the provisions of this Agreement. Any action to interpret or enforce this Agreement shall be brought in Routt County, Colorado. In any such action, the prevailing party shall be entitled to an award of its costs and expenses, including reasonable attorneys' fees.

