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DECLARATION OF CONDOMINIUM FOR COLUMBIA WEST CONDOMINIUMS

10-08-03

FINAL

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DECLARATION
OF CONDOMINIUM FOR
COLUMBIA WEST CONDOMINIUMS

THIS DECLARATION OF CONDOMINIUM FOR COLUMBIA WEST CONDOMINIUMS (the "Declaration") is made as of October _____, 2003, by Raymond A. Messier and Linda I. Messier (collectively, the "Declarant").

RECITALS

A. Declarant is owner of that certain real property located in the County of San Miguel, State of Colorado, more particularly described as Lot 14, San Juan Village P.U.D./Subdivision, according to the Subdivision Vicinity Map and Certificates Correction Plat for San Juan Village P.U.D./Subdivision, Town of Telluride, according to the plat filed of record in the office of the Clerk and Recorder in Plat Book 1 at page 2122, County of San Miguel, State of Colorado (the "Property"), and as more fully described on Exhibit A hereto.

B. Declarant desires to create a condominium common interest community, pursuant to the Colorado Common Interest Ownership Act as set forth in Colorado Revised Statute § 38-33.3-101 *et seq., as amended* (the "Act"), on the Property, the name of which is Columbia West Condominiums, and to subject the community to this Declaration.

ARTICLE 1—DECLARATION AND SUBMISSION

Section 1.1 Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following covenants, restrictions and easements which shall run with the land and be binding on all parties and heirs, successors and assigns of parties having any right, title or interest in all or any part of the Property. Additionally, Declarant hereby submits the Property to the provisions of the Act in order to create a condominium common interest community.

ARTICLE 2—DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration shall have the following meanings:

Section 2.1 "Agency." "Agency" means any agency or corporation such as the U.S. Department of Housing and Urban Development ("HUD"), U.S. Veterans' Administration ("VA"), Federal National Mortgage Association ("FNMA") or Federal Home Loan Mortgage Corporation ("FHLMC") or any other federal agency that purchases or insures residential or similar mortgages.

Section 2.2 "Allocated Interest." Allocated interest means the undivided interest in the Common Elements allocated to each Unit, and votes in the Association allocated to each Unit as set forth on Exhibit B attached hereto. The formulas for the Allocated Interests for each Unit set forth on Exhibit B shall be conclusively determinative thereof.

Section 2.3 "Articles." "Articles" mean the Articles of Incorporation for Columbia West Condominiums Association, Inc., a Colorado non-profit corporation, currently on file with the Colorado Secretary of State, and any amendments that may be made to those Articles from time to time.

Section 2.4 "Annual Assessment or Assessments." "Annual Assessment or Assessments" means the Annual, Special and Default Assessments levied pursuant to Article 11 below. Assessments are also referred to as a Common Expense Liability as defined under the Act.

Section 2.5 "Association." "Association" means Columbia West Condominiums Association, Inc., a Colorado nonprofit corporation, and its successors and assigns.

Section 2.6 "Association Documents." "Association Documents" means this Declaration, the Articles, the Bylaws (as defined in Section 2.9), the Map (as defined in Section 2.22), any Design Guidelines (as defined in Article 17), and any budget, procedures, rules, regulations or policies adopted pursuant to such documents or the Act by the Association, and any amendments or supplements to such documents.

Section 2.7 "Board." "Board" means the Board of Directors of the Association.

Section 2.8 "Building." "Building" means the buildings constructed on the Property containing the Units. Building 1 is located on Columbia Avenue. Building 2 is located along the alley to the south of Building 1. The Buildings are further described in Section 3.5 below.

Section 2.9 "Bylaws." "Bylaws" means the Bylaws adopted by the Association, as amended from time to time.

Section 2.10 "Ceiling." "Ceiling" means the interior surface of the ceiling of a Unit.

Section 2.11 "Clerk and Recorder." "Clerk and Recorder" means the office of the Clerk and Recorder in the County of San Miguel, Colorado.

Section 2.12 "Common Elements." "Common Elements" means all portions of the Project except the Units. The Common Elements are owned in common by the Owners and undivided interests according to the Allocated Interests set forth in Section 2.2 above and consist of General Common Elements and Limited Common Elements.

2.12.1 "General Common Elements." Means all tangible physical properties of the Project except the Limited Common Elements, and except the Units.

2.12.2 "Limited Common Elements." Means those parts of the Common Elements which are either limited to or reserved in this Declaration, on a Map, in a recorded certificate executed by Declarant pursuant to Article 15, or by authorized action of the Association, for the exclusive use of less than all Unit Owners. Without limitation of the foregoing, the following are Limited Common Elements:

a. Unit A: North concrete walk; north steps; north porch with overhang; north second floor deck; Interior Parking L.C.E. Unit A.

b. Unit B: Interior Parking L.C.E. Unit B.

c. Unit C: South second floor deck; Interior Parking L.C.E. Unit C.

d. Each water service valve, meter and line which serves a particular Unit shall be a Limited Common Element for such Unit.

e. Each sanitary sewer line which serves a particular Unit shall be a Limited Common Element for such Unit.

Section 2.13 "Common Expenses." "Common Expenses" means (i) any expenses expressly declared to be common expenses by this Declaration or the Bylaws of the Association; (ii) all other expenses of administering, servicing, conserving, managing, maintaining, repairing or replacing the Common Elements; (iii) insurance premiums for the insurance carried under Article 10; and (iv) all expenses lawfully determined to be common expenses by the Board.

Section 2.14 "County." "County" means the County of San Miguel, State of Colorado.

Section 2.15 "Declarant." "Declarant" means Raymond A. Messier and Linda I. Messier, and any of their successors or assigns who have received an assignment of the Declarant's rights pursuant to the Act.

Section 2.16 "Declaration." "Declaration" means this Declaration and the Map, and amendments and supplements to the foregoing.

Section 2.17 "Exterior Wall." "Exterior Wall" means the walls bounding a Unit on all sides.

Section 2.18 "First Mortgage." "First Mortgage" means any mortgage the priority of which is not subject to any monetary lien or encumbrance except liens for taxes or other liens that are given priority by statute.

Section 2.19 "First Mortgagee." "First Mortgagee" means any person named as a Mortgagee in any First Mortgage.

Section 2.20 "Manager." "Manager" means a person or entity engaged by the Association to perform certain duties, powers or actions of the Association, to the extent the Board may authorize from time to time.

Section 2.21 "Map." "Map" means the condominium map of the Project prepared in accordance with the Act and recorded with the Clerk and Recorder, depicting a plan and elevation schedule of all or a part of the Property subject to this Declaration, and any supplements and amendments thereto.

Section 2.22 "Member." "Member" means a person or entity that holds membership in the Association by virtue of ownership of a Unit.

Section 2.23 "Mortgage." "Mortgage" means any mortgage, deed of trust or other document conveying any Unit or interest therein to a Mortgagee, but only as security for payment of a debt or obligation and not intended to initially convey fee simple title thereof.

Section 2.24 "Mortgagee." "Mortgagee" means any person named as a mortgagee or beneficiary in any Mortgage, or any successor to the interest of any such person under such Mortgage.

Section 2.25 "Owner." "Owner" means the owner of record, whether one or more persons or entities, of fee simple title to any Unit. "Owner" also includes the purchaser under a contract for deed covering a Unit with a current right of possession and interest in the Unit.

Section 2.26 "Owner's Agent." "Owner's Agent" means members of the Owner's family, or the Owner's agent, employee, invitee, licensee or tenant.

Section 2.27 "Person(s)." "Persons" means any natural person or any legal association of persons including, but not limited to partnerships, limited partnerships, corporations, limited liability companies or associations recognized under Colorado law.

Section 2.28 "Project." "Project" means the common interest community created by this Declaration and as shown on the Map consisting of the Property, the Building, the Units and the Common Elements.

Section 2.29 "Property." "Property" means the real property described on Exhibit A attached hereto.

Section 2.30 "Successor Declarant." "Successor Declarant" (1) any person or entity to whom Declarant assigns any or all of its rights, obligations or interest as Declarant, as evidenced by an assignment or deed of record executed by both Declarant and the transferee or assignee and recorded with the Clerk and Recorder, and (2) any Mortgagee holding a Mortgage encumbering that portion of the Project owned by Declarant at such time as said Mortgagee shall gain title to said portion of the Project through foreclosure or deed in lieu of foreclosure.

Section 2.31 "Supplemental Declaration." "Supplemental Declaration" means an instrument which amends this Declaration in accordance with the amendment provisions herein or under the Act if not otherwise provided herein.

Section 2.32 "Supplemental Map." "Supplemental Map" means a supplemental Map of the Project which depicts any change in the Project through a Supplemental Declaration, or which otherwise corrects or amends the Map in accordance with the Act.

Section 2.33 "Unit." "Unit" means an enclosed individual airspace unit to the exterior surface of the drywall or similar materials on the interior of the Exterior Walls, together with the interest in Common Elements appurtenant to such Unit. The paint on painted surfaces on the interior of exterior walls is part of the Unit. The lower boundary for each Unit is the surface of the floor extending to the inside of the Exterior Walls of the Unit. The upper Unit boundary for each Unit is the interior surface of the Ceiling of the Unit. Each Unit also includes the airspace contained within the Exterior Walls, windows, doors and finished surfaces of Exterior Walls, as shown on the Map. The Units are further described in Section 3.5 hereof.

Each capitalized term that is not otherwise defined in this Declaration or in the Map shall have the same meanings specified or used in the Act.

ARTICLE 3—NAME, DIVISION INTO UNITS, DESCRIPTION

Section 3.1 Name. The name of the Project is Columbia West Condominiums. The Project is a condominium common interest community pursuant to the Act.

Section 3.2 Association. The name of the Association is Columbia West Condominiums Association, Inc. Declarant has caused the Association to be incorporated as a nonprofit corporation under the laws of the State of Colorado.

Section 3.3 Number of Units. Subject to Declarant's reserved rights under Article 15 below the Project shall consist of a maximum of three (3) Units in two (2) Buildings. Each Unit shall consist of the fee simple ownership interest in the Unit as defined in this Declaration and an undivided fee simple ownership interest in the General Common Elements as defined in this Declaration.

Section 3.4 Identification of Units. The identification number and street address of each Unit is shown on the Map.

Section 3.5 Description of Units; Buildings; Inseparability; Transfer.

3.5.1 *Description.* The provisions of §38-33.3-202 of the Act, titled "Unit Boundaries," are applicable to the Project. The Unit Boundaries are generally shown on the Map, and are generally enclosed and bounded by the following boundaries:

3.5.1(a) All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any plumbing, electrical, other utility, and security systems located in a Unit and any other materials constituting any part of the finished surfaces thereof are a part of the Unit, and all other portions of the Walls are part of the Unit, except that the exterior structure of the Exterior Walls of a Unit are a part of the Common Elements and all portions of the ceilings and floors other than those described in this Section 3.51(a) are a part of the Common Elements.

3.5.1(b) If any chute, flue, duct, wire, conduit, bearing wall, bearing column, or other fixture which lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a General Common Element allocated to Owners in the Building.

3.5.1(c) Subject to the provisions of paragraph 3.5.1(b) above, all spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

3.5.1(d) Any shutters, awnings, window boxes, doorsteps, stoops and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

3.5.1(e) The lower boundary for each Unit is the exterior surface of the floor of the lowest level of the Unit. The upper Unit boundary for each Unit is the interior surface of the Ceiling of each Unit.

3.5.1(f) All portions of the Building, excluding the Units and the Limited Common Elements allocated to fewer than all the Units in the Building, are General Common Elements allocated to all Owners of Units in the Building.

3.5.2 *Inseparability.* Each Unit as defined above and the appurtenant interest in the Common Elements, shall comprise one Unit, shall be inseparable and may be transferred, leased, devised or encumbered only as one Unit. Any attempted transfer of the appurtenant interest in the Common Elements shall be void unless the Unit to which that interest is allocated is also transferred.

3.5.3 *Transfer.* Any contract of sale, deed, lease, Mortgage, will or other instrument affecting a Unit may describe it as follows:

> CONDOMINIUM UNIT _____, COLUMBIA WEST CONDOMINIUMS, County of San Miguel, State of Colorado, according to the Condominium Map for Columbia West Condominiums thereof filed of record on _____, 2003 in Plat Book 1, Pages ____ to _____, Reception No. _____, and the Declaration of Condominium for Columbia West Condominiums filed of record on _____, at Reception No. _____ (____ pages), in the records of the Clerk and Recorder of the

County of San Miguel, Colorado, as amended and supplemented from time to time.

ARTICLE 4—USE RESTRICTIONS

Section 4.1 Authorized Uses. Each Owner shall be entitled to the exclusive ownership and possession of the Owner's Unit(s). Units A, B and C shall be used and occupied primarily as a part-time or full-time residence. No commercial business activity shall be permitted within Units A, B and C. Nothing in this Declaration, however, is intended to prevent the lawful use of Units A, B or C as a home-occupation office for a business or business entity owned by or affiliated with a Unit Owner or Owner's Agent, or for the conduct of Association business, provided that such business does not generate substantial noise, odor, or pedestrian traffic not typically associated with a residence, and provided that the Association shall have the right to consent to or withhold consent to such proposed home-occupation use. Any such business activity conducted within a Unit or rental of a Unit shall be undertaken in such a manner to ensure the activity does not interfere with other Owners' quiet use and enjoyment of the Property. The Association may establish and enforce any reasonable rules and regulations related to the conduct of business and other activities on the Property, including the Units. Restaurants, bars, commercial food preparation activities and uses, and child daycare operations are prohibited.

Section 4.2 Leasing. Subject to the provisions of Section 6.10, an Owner shall have the right to lease a Unit or any portion thereof in its entirety upon such terms and conditions as the Owner may deem advisable; provided, however, that (i) all leases of more than thirty (30) days shall be in writing, and shall provide that the lease is subject to the terms of this Declaration and the Bylaws; (ii) a Unit may be leased only for the uses provided hereinabove, and (iii) any failure of a lessee to comply with the terms of this Declaration or any other Association Documents shall be a default under the lease enforceable by the Association as a third party beneficiary, whether or not the lease contains such a provision. Limited Common Elements may not be leased apart from the Unit associated with such Limited Common Elements. The Association shall have the right to promptly receive upon request to any Owner, a copy of any such Lease (subject to redaction of financial terms.

Section 4.3 Pets. No pet or animal shall be allowed in or about the Project including Common Elements, at any time without prior written approval of the Association Board. Any approved pet shall be subject to close supervision by an Owner or Owner's Agent. Owners and Owner's Agents shall be responsible for strict compliance with all laws and any rules or regulations adopted from time to time by the Association related to pets and pet ownership, including any regulation wholly excluding or limiting the number or type of pets allowed, and shall ensure their pet does not interfere with other Owner's quiet use and enjoyment of the Project premises. Owners will be held responsible for any litter, waste, mess or damage created by their pets in the Common Elements and for any offensive noises and/or odors created by their pets. An Owner's right to keep a pet shall be coupled with the responsibility to pay for any damage caused by such Owner's pet(s), as well as any costs incurred by the Association as a result of such pet(s), and any such amounts shall be and constitute a Default Assessment subject to and enforceable by the Association in accordance with this Declaration.

Section 4.4 Structures. Except as hereinafter provided and except as reserved by Declarant hereunder, no structure of a temporary character, including but not limited to a tent, shack, storage shed, enclosure, or outbuilding, shall be placed or erected upon or within the Common Elements unless authorized by Declarant, or by the Association following the period of Declarant Control; no Unit shall be occupied in any manner at any time prior to being fully completed; nor shall any Unit when completed be in any manner occupied until made to comply with all requirements, conditions, and restrictions set forth herein. However, during the actual construction, alteration, repair or remodeling of a Unit, necessary temporary structures for storage of materials may be erected and maintained by the person doing such work, subject to the prior written approval of the Board as to the storage sites and method. The work of constructing, altering or remodeling any Unit shall be prosecuted diligently from the commencement thereof until completion.

Section 4.5 Miscellaneous.

4.5.1 Except for (a) signage rights reserved by the Declarant hereunder, (b) a single "For Sale," "Open House," or "For Rent" sign per Unit, (c) an appropriate identifying number, and (d) not more than two business, Owner, or tenant identification signs per Unit, no advertising or signs of any character shall be erected, placed, permitted, or maintained on any Unit or Common Elements. Any identification sign shall be subject to Board approval and shall be properly permitted by the Town of Telluride.

4.5.2 Absent Board approval, no clotheslines, or storage of materials not accessory to a Unit shall be so located on any Unit or the Common Elements, including balconies, as to be visible from a street, from any other Unit or from the General Common Elements.

4.5.3 Absent Board approval, all types of refrigerating, cooling, or heating apparatus shall be concealed within the Unit and in no event may such an apparatus be placed upon the Common Elements.

4.5.4 Except to the extent this provision contravenes applicable state or federal law, no satellite dishes or exterior aerials or antennas of any kind may be placed upon the exterior of the Building or upon any part of a Unit or Common Elements without the prior written approval of the Board. The Board may impose conditions upon such facilities, including but not limited to size or height limitations and screening requirements, as it may deem appropriate in connection with any approval.

4.5.5 Absent Board approval, no trailer, boat or accessories thereto, truck (larger than 3/4 ton), self-contained motorized recreational vehicle or motor home, other type of recreational vehicle, motor home or recreational equipment, or other motor vehicle (except a passenger vehicle), may be parked on the Property. This restriction, however, shall not restrict trucks or other commercial vehicles within the Property which are necessary for construction or for the maintenance of the Common Elements, Units, or any improvements located thereon, which vehicles may be restricted by the Association. Subject to the provisions of this subsection, an Owner or an Owner's Agent may park passenger cars, vans, or trucks which are 3/4-tons or

smaller or motorcycles in the parking space Common Elements or as may be otherwise provided by the Association.

4.5.6 Except as hereinabove provided, no abandoned or inoperable passenger cars or other vehicles of any kind shall be stored or parked on the Project. An "abandoned or inoperable vehicle" shall be defined as any passenger car, truck, motorcycle, boat, trailer, camper, house trailer, self-contained motorized recreational vehicle, or other similar vehicle, which, for a period of two (2) days or longer, does not have an operable propulsion system installed therein, has flat tires or has any other condition preventing the regular and normal operation and movement of the vehicle.

4.5.7 Except as otherwise authorized or provided by Article 15, the Association is authorized to adopt rules, regulations and policies setting forth authorizations and restrictions on parking and storage of vehicles within the Project, storage of materials in Limited Common Elements and elsewhere within the Project, the performance of work within parking spaces and other Common Elements, and the placement of vehicles and materials within the parking spaces.

4.5.8 No mechanical maintenance, repair, rebuilding, dismantling, or repainting of any kind of vehicles, may be performed or conducted on the Property.

Section 4.6 Parking. Parking spaces are initially designated as Limited Common Elements. Parking space L.C.E.'s are subject to re-designation by recording two deeds exchanging such L.C.E.'s, without the necessity of a Map Amendment and Declaration Supplement.

4.6.1 Except for Declarant, no more than one Parking L.C.E. may be purchased or owned by an Owner if the Owner only owns one Unit. An Owner of two Units may own only two parking space L.C.E.'s. Parking space L.C.E.'s may be leased to Unit Owners, Owner's Agents, or the Association. Otherwise, a parking space L.C.E. shall only be used in connection with use of the Unit to which the parking space L.C.E. is appurtenant. No parking space L.C.E. may be leased to a non-Owner of a Unit.

4.6.2 All parking space L.C.E.'s are subject to rules and regulations that may be promulgated by the Association. Maintenance and repair of the parking space L.C.E.'s is further addressed in Article 10.

4.6.3 In the event that the Owner or Owner's Agent does not comply with the provisions of this Section 4.6, such Owner and/or Owner's Agent shall be fined by the Association not less than $25.00 and not more than $250.00 for each violation. The maximum fine may be increased by the Board in proportion to inflation. Each day in which a violation continues shall be deemed to be a separate and distinct violation.

ARTICLE 5—MEMBERSHIP AND VOTING RIGHTS: ASSOCIATION OPERATIONS

Section 5.1 The Association. Every Owner of a Unit shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Unit.

Section 5.2 Transfer of Membership. An Owner shall not transfer, pledge or alienate his or her membership in the Association in any way, except upon the sale or encumbrance of a Unit and then only to the purchaser or Mortgagee of such Unit. The Association shall not create a right of first refusal on any Unit.

Section 5.3 Membership and Voting. The Association shall have one (1) class of membership consisting of all Owners, including the Declarant so long as Declarant continues to own an interest in a Unit. Except as otherwise provided for in this Declaration, each Member shall be entitled to vote in Association matters as set forth in Section 2.2, above. Each Owner, including Declarant while Declarant owns an interest in any Unit, is subject to all the rights and duties assigned to Owners under the Association Documents. Notwithstanding the number of Owners of record for any particular Unit, each Unit is entitled to only one vote. Votes cannot be fractionally divided. The Voting Interests for each Unit are summarized in Exhibit B.

Section 5.4 Declarant Control.

5.4.1 Declarant shall be entitled to appoint and remove the members of the Association's Board and officers of the Association during the term of Declarant Control, except that Declarant shall not be entitled to remove a director who is a Unit Owner other than the Declarant. "Declarant Control" begins with the appointment of the initial Board. The period of Declarant Control of the Association shall terminate upon the first to occur of: (a) sixty (60) days after conveyance of all Units in the Project to Owners other than a Declarant; (b) eighteen months after the last conveyance of a Unit by a Declarant in the ordinary course of business; or (c) eighteen months after any right to add new Units was last exercised. Declarant may voluntarily surrender the right to appoint and remove officers 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.

5.4.2 Notwithstanding the period of Declarant Control, not later than sixty (60) days after conveyance of fifty percent (50%) of the total number of Units in the Project to Owners other than Declarant, at least one member 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 a 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.

5.4.3 Within sixty (60) days after the end of the period of Declarant Control, Declarant shall transfer and deliver to the Association all property of the Owners and the Association held or controlled by Declarant, including the following:

(a) The original or a certified copy of the recorded Declaration as amended, the Articles, Bylaws, minute books, other books and records of the Association, and any rules and regulations which may have been promulgated;

(b) An accounting for Association funds and financial statements, from the date the Association received funds and ending on the date the period of Declarant Control ends;

(c) The Association funds or control thereof;

(d) All of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Elements, and inventories of these properties;

(e) A copy, for the nonexclusive use by the Association, of any plans and specifications used in the construction of the improvements in the Project;

(f) All insurance policies then in force, in which the Owners, the Association, or its directors and officers are named as insured persons;

(g) Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the Project;

(h) Any other permits issued by governmental bodies applicable to the Project and which are currently in force or which were issued within one year prior to the date on which Owners other than the Declarant took control of the Association;

(i) Written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective;

(j) A roster of Owners and mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;

(k) Employment contracts in which the Association is a contracting party; and

(l) Any service contract in which the Association is a contracting party or in which the Association or the Owners have any obligation to pay a fee to the persons performing the services.

Section 5.5 Books and Records. The Association shall make available to Owners and Owner's Agents and to Mortgagees for inspection, upon request, during normal business hours or under other reasonable circumstances, current copies of the 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. The Association shall maintain such books and records as may be required under the Act.

Section 5.6 Manager. The Association may employ or contract for the services of a Manager to whom the Board may delegate certain powers, functions or duties of the Association, as provided in the Bylaws of the Association. The Manager shall not have the authority to make expenditures except as directed by the Board.

Section 5.7 Rights of Action. The Association on behalf of itself and any aggrieved Owner(s) shall be granted a right of action against any and all Owners for failure to comply with the provisions of the Association Documents, or with decisions of the Board made pursuant to authority granted to the Association in the Association Documents. Each Owner shall have a right of action against the Association (but against not its individual Board members or officers) for failure to comply with the provisions of the Association Documents, or with decisions of the Board or Association officers made pursuant to authority granted to the Association in the Association Documents. In any action covered by this Section, the Association or any Owner shall have the right but not the obligation to enforce Association Documents by any proceeding at law or in equity, or as set forth in the Association Documents, or by mediation or binding arbitration if the parties so agree or if required by this Declaration. The prevailing party in any arbitration or judicial relief shall be entitled to reimbursement from the non-prevailing party or parties, for all reasonable costs and expenses, including arbitration fees, court costs, expert witness fees, and attorneys' fees in connection with such arbitration or judicial relief. Failure by the Association or by any Owner to enforce compliance with any provision of the Association Documents shall not be deemed a waiver of the right to enforce any provision thereafter.

Section 5.8 Implied Rights and Obligations. The Association may exercise any right or privilege expressly granted to the Association in the Association Documents, by the Act and by the Colorado Revised Nonprofit Corporation Act.

Section 5.9 Notice. Any notice to an Owner of matters affecting the Project by the Association or by another Owner shall be sufficiently given if in writing and delivered personally, by courier, by private service delivery, on the third business day after deposit in the mails for registered or certified mail, return receipt requested, at the address of record for real property tax assessment notices with respect to that Owner's Unit.

Section 5.10 Owner Use and Occupancy Regulation. The Association shall have and may exercise the right to control Owners' use and occupancy of their respective Units in order to assure Owners of eligibility of the Project for any Agency-owned or insured Mortgage. The Association may adopt rules and regulations with respect to emergency contact information, access to Units, and Unit entry doors. This section shall not authorize prohibition of leasing of any Unit to another Owner or the Association.

ARTICLE 6—POWERS OF THE BOARD OF THE ASSOCIATION

Except as provided in the Bylaws and the Act, the Board may act in all instances on behalf of the Association, to:

Section 6.1 Rules and Regulations. Adopt and amend rules and regulations regarding the use and enjoyment of the Common Elements and reasonable restrictions on the use of the Units;

Section 6.2 Budgets. Adopt and amend budgets for revenues, expenditures and assessments, subject to Section 12.2 below;

Section 6.3 Managing Agent. Hire and terminate managing agents and other employees, agents and independent contractors;

Section 6.4 Litigation. Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting the Project;

Section 6.5 Contracts. Make contracts and incur liabilities, except that any contract providing for the services of Declarant may not exceed three (3) years and must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days written notice unless a shorter notice period is mutually agreed to by the parties to the contract;

Section 6.6 Common Elements. Regulate the use, maintenance, repair, replacement and modification of Common Elements;

Section 6.7 Improvements. Cause additional improvements to be made as part of the Common Elements;

Section 6.8 Property. Acquire, hold, encumber and convey in the name of the Association any right title or interest to real or personal property, provided that Common Elements may be conveyed or subjected to a security interest only if: (a) Members entitled to cast at least sixty percent (66.66 %) of the votes agree to that action; (b) the provisions of Article 17 are followed with respect to approval of First Mortgagees; and (c) all Owners to which any Limited Common Element is allocated agree in order to convey that Limited Common Element or subject it to a security interest;

Section 6.9 Easements. Grant easements, leases, licenses and concessions through or over the Common Elements, subject to approval by all of the Owners;

Section 6.10 Fees. Impose and receive any payments, fees or charges for the use, rental or operation of the General Common Elements, subject to approval by Owners;

Section 6.11 Charges and Fines. Impose charges for late payment of Assessments, recover reasonable attorney fees and other legal costs for collection of Assessments and other actions to enforce the powers of the Association, regardless of whether or not suit was initiated and, after notice and opportunity to be heard, levy reasonable fines for violations of the Association Documents;

Section 6.12 Amendments. Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid Assessments;

Section 6.13 Indemnification. Provide for the indemnification of its officers and Board and maintain directors' and officers' liability insurance;

Section 6.14 Assignment. Assign its right to future income, including the right to receive Assessments;

Section 6.15 General Powers. Exercise any other powers conferred by the Act, the Declaration or Bylaws;

Section 6.16 Corporate Powers. Exercise all other powers that may be exercised in this state by legal entities of the same type as the Association; and

Section 6.17 Necessary Powers. Exercise any other powers necessary and proper for the governance and operation of the Association.

ARTICLE 7—MECHANIC'S LIENS

Section 7.1 No Liability. If any Owner shall cause any material to be furnished to such Owner's Unit or any labor to be performed therein or thereon, no Owner of any other Unit, nor the Association, shall under any circumstances be liable for the payment of any expense incurred or for the value of any work done or material furnished. All such work shall be at the expense of the Owner causing it to be done, and such Owner shall be solely responsible to contractors, laborers, material men and other persons furnishing labor or materials to the Owner's Unit.

Section 7.2 Indemnification. If, because of any act or omission of any Owner, any mechanic's or other lien, claim or order for the payment of money shall be filed against the Common Elements or against any other Owner's Unit or an Owner or the Association (whether or not such lien, claim or order is valid and enforceable as such), the Owner whose act or omission forms the basis for such lien, claim or order shall, at such Owner's own cost and expense, cause the same to be canceled and discharged of record or bonded by a surety company reasonably acceptable to the Association, or to such other Owner or Owners, within twenty (20) days after the date of filing thereof, and further shall indemnify and hold all the other Owners and the Association harmless from and against any and all costs, expenses, claims, losses or damages including, without limitation reasonable attorneys' fees resulting therefrom.

Section 7.3 Association Action. Labor performed or materials furnished for the Common Elements, if duly authorized by the Association shall be the basis for the filing of a lien pursuant to law against the Common Elements. Any such lien shall be limited to the Common Elements and no such lien may be affected against a Unit(s).

ARTICLE 8—EASEMENTS

Section 8.1 Recorded Easements. The Property shall be subject to all easements as shown on any Map or plat, those of record, those provided in the Act (including easements for encroachment set forth in C.R.S. 38-33.3–24 of the Act and an easement for maintenance of any such encroachment), and otherwise as set forth in this Article.

Section 8.2 Declarant's Rights Incident to Construction. Declarant, for itself and its successors and assigns, the Association and/or for Owners, hereby reserves an easement for construction, utilities, drainage, ingress and egress over, in, upon, under and across the Common Elements, together with the right to store materials on the Common Elements, to build and maintain temporary walls, to make any repairs or modifications to the Project and any Units required to remedy any construction or design defect, and to make such other use of the Common Elements as may be reasonably necessary or incident to any development and sale of the Units, Common Elements or improvements on the Property or other real property owned by Declarant or other properties abutting and contiguous to the Property; provided, however, that no such rights shall be exercised by Declarant in a way which unreasonably interferes with the occupancy, use, enjoyment or access to the Project by the Owners.

Section 8.3 Utility Easements. There is hereby created a blanket easement upon, across, over, in and under the Property for the benefit of the Common Elements, the Units and the structures and improvements situated on the Property for ingress and egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone, cable television and electricity. Said blanket easement includes future utility services not presently available to the Units and the Common Elements which may reasonably be required in the future. By virtue of this easement, it shall be expressly permissible for the companies providing utilities to erect and maintain the necessary equipment on any of the Units and the Common Elements and to affix and maintain electrical and/or telephone wires, circuits, conduits and pipes on, above, across and under the roofs and Exterior Walls of the improvements, all in a manner customary for such companies in the area surrounding the Property, subject to approval by the Association as to locations which shall not be unreasonably withheld.

Section 8.4 Reservation of Easements, Exceptions and Exclusions. The Association is hereby granted the right to establish from time to time, by declaration or otherwise, utility and other easements, permits or licenses over the Common Elements for the best interest of all the Owners and the Association. Each Owner is hereby granted a perpetual non-exclusive right of ingress to and egress from the Owner's Unit over and across the General Common Elements and the Limited Common Elements appurtenant to that Owner's Unit and which right shall be appurtenant to the Owner's Unit and which right shall be subject to limited and reasonable restriction on the use of Common Elements set forth in writing by the Board, such as for closure for repairs and maintenance.

Section 8.5 Emergency Access Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons to enter upon the Property in the proper performance of their duties, provided that this provision does not constitute consent to a search of the Property or any Unit.

Section 8.6 Support Easements. Each Unit is subject to a blanket easement for support and a blanket easement for the maintenance of structures or improvements presently situated or to be built in the future on the Property.

Section 8.7 Waterlines Access Easement. There is hereby established a waterlines access easement within Unit A for the benefit of Units B and C. The easement shall be for the purpose of entering Unit A and proceeding directly to or from a crawlspace hatch located in the closet of the north bedroom on the first floor of Unit A, in order to inspect, repair, maintain or replace the waterline L.C.E.'s for Units B and C, which are located in the crawlspace beneath Unit A. Except in the event of an emergency, access for the purpose of routine inspection, maintenance and repair shall be limited to normal business hours during weekdays and shall be preceded by not less than forty-eight hour advance written, telephonic, or posted notice to the Unit A occupant.

Section 8.8 Sewer Line Access Easement. There is hereby established a sanitary sewer line access easement within Unit C for the benefit of Units A and B. The easement shall be for the purpose of entering Unit C and proceeding directly to or from a crawlspace hatch located in the closet under the stairway on the first floor of Unit C, in order to inspect, repair, maintain or replace the sanitary sewer line L.C.E.'s for Units A and B, which are located below the crawlspace beneath Units B and C. Except in the event of an emergency, access for the purpose of routine inspection, maintenance and repair shall be limited to normal business hours during weekdays and shall be preceded by not less than forty-eight hour advance written, telephonic, or posted notice to the Unit C occupant.

ARTICLE 9—MAINTENANCE

Section 9.1 Maintenance by Owners. Each Owner shall maintain and keep in good repair his or her Unit and Limited Common Elements allocated solely to the Owner's Unit, including the fixtures therein, to the extent current repair shall be necessary in order to avoid damaging any other Owner's Unit(s) or any Common Elements. All fixtures and equipment installed within the Unit commencing at a point where the utilities enter the Unit shall be maintained and kept in repair by the Owner of such Unit. An Owner shall do no act or any work that will impair or reduce the structural soundness or integrity of any Unit or the Common Elements or obstruct any easement. Each Owner shall maintain Limited Common Elements free from clutter and debris. Each Owner shall be responsible for the maintenance of the interior non-supporting walls of such Owner's Unit, and the surface materials thereon such as plaster, drywall, paneling, wallpaper, paint, tile and carpeting to the Exterior walls, ceilings and floors within the Unit, including Unit doors, windows and screens. The Association reserves the right to assign further maintenance responsibility to the Unit Owner of certain areas of each Unit owned by such Owner and of other Limited Common Elements, and the Owner is obligated to

accept said maintenance responsibility, provided said assignment is done in a uniform and nondiscriminatory manner.

Section 9.2 Owner's Failure to Maintain or Repair. In the event that a Unit (including the allocated Limited Common Elements, and other property assigned to the Owner for maintenance pursuant to Section 9.1) is not properly maintained and repaired, and if the maintenance responsibility for the un-maintained portion of the Unit lies with the Owner of the Unit, or in the event that the Unit is damaged or destroyed by an event of casualty and the Owner does not take reasonable measures to diligently pursue the repair and reconstruction of those portions of the damaged or destroyed property for which the Owner is responsible to substantially maintain in a condition of good order and repair, then the Association, after notice to the Owner and with the approval of the Board (after a determination by the Board that the condition of such Unit or other property negatively impacts other Owners or the value of other Units within the Project) shall have the right to enter upon the Unit (or other property) to perform such work as is reasonably required to restore the Unit (or other property) to a condition of good order and repair. All costs incurred by the Association in connection with the restoration, shall be promptly reimbursed to the Association by the Owner of the Unit upon demand. All such un-reimbursed costs shall be a Special Assessment and a lien upon the Unit until reimbursement is made. The lien may be enforced in the same manner as a lien for unpaid Assessments levied in accordance with Article 11 of this Declaration.

Section 9.3 Maintenance by Association.

9.3.1 General. The Association shall be responsible for the maintenance and repair of the General Common Elements, whether located inside or outside of Units (except as set forth in Section 9.1 above, and unless necessitated by damage caused by the negligence, misuse or tortious act of an Owner or Owner's Agent as set forth in Section 9.4 below), which shall be the Common Expense of all Owners; *provided, however,* that except as expressly provided in this Declaration, the cost of maintenance and repair of Limited Common Elements undertaken by the Association shall be an expense of the Owner(s) to which are allocated the Limited Common Elements so maintained or repaired.

9.3.2 Association Maintenance. Association maintenance shall include, but shall not be limited to, upkeep, repair and replacement, subject to any insurance then in effect, of all landscaping and walls which Owners are not required to maintain as set forth in Section 10.1, gates, Association signage, irrigation systems, Building fire system, Building security system, sidewalks, driveways, roofs, Building stairways, storage areas, and improvements, if any (which shall include without limitation snow removal services unless performed by another organization formed for such purposes), and utilities (other than waterline L.C.E.'s and sanitary sewer line L.C.E.'s) within Building walls and floors located in the Common Elements. In the event the Association does not maintain or repair the Common Elements, Declarant and/or the Unit Owner(s) shall have the right, but not the obligation, to do so at the expense of the Association. If the Declarant and/or the Unit Owner(s) elects to conduct any maintenance or repair work on behalf of the Association, the Declarant and/or the Unit Owner(s) shall bill the Association for the costs of the work conducted, providing documentation of the charges incurred. The

Association shall reimburse the Declarant and/or the Unit Owner(s) for the maintenance or repair within fifteen (15) days of the Association's receipt of the invoice.

9.3.3 Parking Maintenance. All maintenance, repair and replacement of the surfaces underlying parking space L.C.E.s shall be undertaken by the Owner to which said L.C.E. is appurtenant, or by the Association. The cost of maintenance, repair and replacement of parking spaces by the Association shall be an Annual Assessment or Special Assessment (as determined and made by the Association) pursuant to Article 11 hereof, against the Owner's Unit to whom the subject parking space L.C.E. is appurtenant. Such lien may be enforced in the same manner as a lien for other unpaid Assessments levied in accordance with Article 11 of this Declaration.

Section 9.4 Association Maintenance as Common Expense. Except as otherwise provided herein or specifically authorized by the Board, the cost of maintenance and repair by the Association shall be a Common Expense of all of the Owners, to be shared by each Owner according to the Allocated Interests therefore set forth on Exhibit B. Damage to the interior or any part of a Unit resulting, from the maintenance, repair, emergency repair or replacement of any of the Common Elements or as a result of emergency repairs within another Unit at the instance of the Association shall also be a Common Expense of all of the Owners. However, if such damage is caused by negligent or tortious acts of an Owner or Owner's Agent, then such Owner shall be responsible and liable for all of such damage and the cost thereof, to the extent that Owner or Owner's Agent's negligence caused such damage, which must be timely paid.

Section 9.5 Easement for Access and Maintenance. Each Owner and the Association shall have the irrevocable right to be exercised only by the Manager, the Board or officers or employees of the Association, unless otherwise delegated in writing by the Association, to have access to each Unit from time to time during reasonable hours on reasonable notice as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, and for ingress and egress between the Unit and the adjoining street, or at any hour for making emergency repairs, maintenance or inspection therein necessary to prevent damage to the Common Elements or another Unit. In the event insurance proceeds under Article 10 are payable to an Owner but the maintenance responsibility of the area to which such proceeds relate is the Association's, the Association shall complete any such repair or replacement at the Owner's cost.

Section 9.6 Limited Common Element Damage. In the event of damage or destruction of a Limited Common Element from any cause other than the negligence or tortious acts of an Owner or Owner's Agent, the-then Owners of the Units to which the Limited Common Element is attributable shall bear equally the expense to repair or rebuild the Limited Common Element to its previous condition. In the event of damage or destruction of a Limited Common Element caused by the negligence or tortious acts of an Owner or Owner's Agent, said Owner shall bear the cost of such damage to the extent of such Owner's or Owner's Agent's negligence.

Section 9.7 Association Power. Except to the extent of Declarant's reserved rights, the Association shall have the right and power to prohibit storage or other activities deemed, in the sole discretion of the Board, unsightly, unreasonably noisy or otherwise offensive to the senses and perceptible from another Unit or the Common Elements. No Owner shall make any addition

or other alteration to any portion of the Common Elements, no matter how minor, without the express prior written consent of the Board.

ARTICLE 10—INSURANCE

Section 10.1 General Insurance Provisions. Not later than the time of the first conveyance of a Unit to a purchaser other than Declarant, the Association shall acquire and pay for, out of the assessments levied under Article 11 below, the following insurance policies carried with reputable insurance companies authorized to do business and licensed to provide insurance in Colorado:

10.1.1 Property Insurance Coverage. Property insurance, with extended coverage, including fire, vandalism, malicious mischief, all-risk, replacement cost, agreed amount (if the policy includes coinsurance), special Condominium, building ordinance and inflation guard endorsements attached, in amounts determined by the Board to represent not less than the full then current insurable replacement cost of the Common Elements, *and including* all fixtures, interior and exterior walls and floors, partitions, decorated and finished surfaces of interior and exterior walls, floors, and ceilings, doors, windows and other elements or materials comprising a part of the Units and including any fixtures, equipment or other property within the Units which are to be financed by a Mortgage to be purchased by an Agency, including FNMA and FHLMC, *but excluding* any duly authorized betterments and improvements made by Owners and building excavations and foundations. Maximum deductible amounts for such policy shall be determined by the Board; *provided, however,* that if any Agency requires specific deductibles, the Board shall follow such Agency's requirements. The Association shall obtain insurance covering the original specifications of each Unit. Each Owner shall be responsible for obtaining, additional or supplemental insurance covering any additions, alterations or improvements to its Unit, which increase the replacement value of its Unit. In the event that satisfactory arrangement is not made for additional insurance by the Owner, the Owner shall be responsible for any deficiency in any resulting insurance loss recovery and the Association shall not be obligated to apply any insurance proceeds to restore the affected Unit to a condition better than the condition existing prior to the making of such additions, alterations or improvements. Any additional premiums attributable to the original specifications of a Unit for which the insurance is increased as herein provided may be the subject of a lien for nonpayment as provided in Section 10.7 hereof in the event the Association pays such premium for an Owner. Subject to Section 10.2 below, such property insurance policy must be written by an insurance carrier that has (a) a "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's Insurance Reports, or (b) an "A" or better general policyholder's rating and a financial size category of or better in Best's Insurance Reports International Edition or equivalent.

10.1.2 Comprehensive Liability. Comprehensive general public liability and property damage insurance in such amounts as the Board deems desirable, provided that such coverage shall be for at least two million dollars ($2,000,000) for bodily injury, including deaths and property damage arising out of a single occurrence insuring the Association, the Board, the Association officers, the Manager or managing agent, or both, if any, and their respective agents and employees, and the Unit Owners from liability in connection with the operation, maintenance and use of the Common Elements including a "severability of interest" clause or specific

endorsement. Such coverage shall also include legal liability arising out of contracts of the Association and such other risks as are customarily covered with respect to Condominiums similar to the Project in the Telluride area, including automobile liability insurance if appropriate. To the extent feasible, the Board shall not enter into employment contracts or independent contractor contracts of any kind unless the contracting party provides evidence (such as a Certificate of Insurance) to the Board that such party has current satisfactory insurance, including workers compensation insurance, commercial general liability insurance and automobile insurance on all of which the Association is named as an additional insured.

Section 10.2 Form. The insurance policies may be carried in blanket policy form naming the Association as the insured, for the use and benefit of and as attorney-in-fact for the Owners. Each Owner shall be an insured person under the policy with respect to liability arising out of such Owner's interest in a Unit and in the Common Elements or membership in the Association. Each Mortgagee and its successors or assigns shall be a beneficiary of the policy in the percentages of Common Expenses for the Unit, which the Mortgage encumbers. To the extent feasible, the insurance company shall waive its rights of subrogation under the insurance policy against any Owner or member of the Owner's household. No act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, shall void the insurance policy or be a condition to recovery under the insurance policy. If, at the time of a loss under an insurance policy described above there is other insurance in the name of the Owner covering the same risk covered by the policy, the Association's Policy shall provide Primary insurance.

Section 10.3 Owners' Insurance. Insurance coverage on items of personal property within a Unit belonging to an Owner and any additions and alterations to a Unit which increase the Unit's replacement value above that of the original specifications for the Unit, casualty and public liability insurance coverage for each Unit and the work within each Unit or on the Limited Common Elements associated therewith, shall be the responsibility of the Owner of the Unit.

Section 10.4 Certificates of Insurance; Cancellation. Certificates of insurance shall be issued by the Association to each Owner and Mortgagee upon written request to the Association. All policies required to be carried under this Article 10 shall provide a standard non-contributory mortgagee clause in favor of each First Mortgagee of a Unit and shall provide that such policy cannot be canceled by the insurance company without at least thirty (30) days prior written notice to each Owner and each First Mortgagee whose address is shown in the records Maintained pursuant to the Association's documents. If the insurance described in Article 10 is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefore having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners and to all First Mortgagees.

Section 10.5 Insurance Proceeds. Any loss covered by the property insurance policy described in Section 10.1 must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Owners and Mortgagees as their interests may

appear. Subject to the provisions of Section 10.7 below, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, Owners and Mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored or the regime created by this Declaration is terminated.

Section 10.6 Insurer Obligation. An insurer that has issued an insurance policy for the insurance described in Sections 10.1, 10.2 and 10.9 or its agent shall issue certificates or memoranda of insurance to the Association and, upon request to any Owner or Mortgagee. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed-cancellation or non-renewal has been mailed to the Association and to each Owner and Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last-known addresses, and to any servicer of any other Mortgage.

Section 10.7 Repair and Replacement. Any portion of the Common Elements for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

10.7.1 The common interest community created by this Declaration is terminated, in which case the approval must first be obtained of Owners holding at least sixty-seven percent (67%) of the voting interests of the Association;

10.7.2 Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;

10.7.3 There is a vote not to rebuild by (a) Owners holding at least sixty-seven percent (67%) of the voting interest of the Association and (b) every Owner of a Unit or assigned a Limited Common Element that will not be rebuilt; or

10.7.4 Prior to the conveyance of any Unit to a person other than Declarant, the Mortgagee holding a Mortgage on the damaged portion of the Common Elements rightfully demands all or a substantial part of the insurance proceeds.

10.7.5 The cost of repair or replacement of Common Elements in excess of insurance proceeds and reserves is a Common Expense. If all the Common Elements are not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Project, and except to the extent that other persons will be distributees, the insurance proceeds must be distributed to all the Owners or Mortgagees, as their interests may appear in proportion to each Unit's Allocated Interests.

Section 10.8 Common Expenses. Premiums for insurance that the Association acquires and other expenses connected with acquiring such insurance are Common Expenses, provided, however, that if the Association's property and extended coverage insurance covers fixtures, equipment or other property within or associated with some but not all of the Units (as required

by any Agency), or other insurance attributable to some but not all of the Units, the Association reserves the right to charge the Owners of such Units for which the Association provides additional insurance coverage, an amount equal to the premium attributable to such additional insurance coverage as calculated by or through the Association.

Section 10.9 Fidelity Insurance. Fidelity insurance or fidelity bonds must be maintained by the Association to protect against dishonest acts on the part of its officers, directors, trustees and employees and on the part of all others, including any manager hired by the Association, who handle or are responsible for handling the funds belonging to or administered by the Association in an amount not less than the greater of, (a) twenty-five thousand dollars ($25,000); or (b) the estimated maximum of funds, including reserve funds, in the custody of the Association or management agent as the case may be, at any given time during the term of each policy as calculated from the current budget of the Association but in no event less than a sum equal to three (3) months' aggregate assessments plus reserve funds. In addition, if responsibility for handling funds is delegated to a Manager, such insurance or bonds must be obtained by or for the Manager and its officers, employees and agents, as applicable. Such fidelity insurance or bonds shall name the Association as insured and shall contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions.

Section 10.10 Workers' Compensation Insurance. The Board shall obtain Workers Compensation or similar insurance with respect to its employees, if applicable, in the amounts and forms as may now or hereafter be required by law.

Section 10.11 Other Insurance. The Association shall maintain flood insurance if any part of the Project is located within a Special Flood Hazard Area on a Flood Insurance Rate Map, equal to the lesser of 100% of the insurable value of the Project or the maximum coverage available under the appropriate National Flood Insurance Program. The Association shall also maintain errors and omissions insurance to the extent reasonably available and in such amounts as the Board may deem appropriate on behalf of the Board against any liability asserted against a member of the Board, an officer of the Association, and agents and employees of the Board or the Association, or incurred by in their capacity of or arising out of the insured's status as a member of the Board, an officer of the Association, or an agent or employee of the Board or the Association. The Board 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 or as requested by an Agency.

ARTICLE 11—ASSESSMENTS

Section 11.1 Obligation. Each Owner, including Declarant while an Owner of any Unit, is obligated to pay to the Association all: (1) the Annual Assessments; (2) Special Assessments; and (3) Default Assessments described below.

Section 11.2 Budget. The Board shall adopt a budget for revenues, expenditures and reserves for the Project and shall submit the budget to a vote of the Owners as provided herein no less frequently than annually. The Board shall levy and assess the Annual Assessments in accordance with the annual budget. Within thirty (30) days after the adoption of a proposed annual budget for the Association, the Board 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 mailing or other delivery of the summary. Unless at that meeting a majority of all Owners reject the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the annual budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

Section 11.3 Annual Assessments.

11.3.1 Annual Assessments made for Common Expenses shall be based upon the estimated cash requirements as the Board shall from time to time budget and determine to be paid by all of the Owners, subject to Section 11.2 above. Estimated Common Expenses shall include the cost of routine maintenance and operation of the Common Elements, including but not limited to that portion of real property taxes, if any, attributable to the Common Elements, expenses of management and insurance premiums for insurance coverage as deemed desirable or necessary by the Association, landscaping of the General Common Elements, care of grounds within the General Common Elements, routine repairs, renovations and upkeep within the Common Elements, wages, water, sewer service and common utility charges, snow, trash and recycling removal, recycling charges, parking space maintenance, common electric charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Association under or by reason of this Declaration, payment of any default remaining from a previous assessment period, and the creation of a reasonable and adequate contingency or other reserve or surplus fund for insurance deductibles and general, routine maintenance, repairs and replacement of improvements within the Common Elements on a periodic basis, as needed.

11.3.2 Annual Assessments shall be payable in monthly installments on a prorated basis in advance and shall be due on the first day of each month; *provided, however,* that the Association may, with the consent of Owners holding a majority of the vote in the Association, designate any other installment period. The omission or failure of the Association to fix the Annual Assessments for any assessment period shall not be deemed a waiver, modification or release of the Owners from their obligation to pay the same. The Association shall have the right but not the obligation, to make prorated refunds of any Annual Assessments in excess of the actual expenses incurred in any fiscal year.

Section 11.4 Apportionment of Annual Assessments. The Common Expenses shall be allocated among the Units on the basis of the Allocated Interests for Common Expenses in effect on the date of assessment, *provided, however,* that the Association reserves the right to allocate all expenses relating to fewer than all of the Units (such as those expenses attributable to certain utilities, Limited Common Elements, and insurance premiums described in Section 10.8) to the Owners of those affected Units only. Operation, repair and replacement of all heat melt systems

for exterior decks and sidewalks, and all in-floor heat systems and the control gas system, shall nevertheless be a Common Expense.

Section 11.5 Special Assessments. In addition to the Annual Assessments, the Association may levy in any fiscal year one or more Special Assessments, payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of improvements within the Common Elements or for any other expense incurred or to be incurred as provided in this Declaration. This Section 11.5 shall not be construed as an independent source of authority for the Association to incur expense, but shall be construed to prescribe the manner of assessing expenses authorized by other sections of this Declaration. Any amounts assessed pursuant to this Section shall be assessed to Owners according to their Allocated Interests for Common Expenses, subject to the right of the Association to assess only against the Owners of affected Units any extraordinary maintenance, repair or restoration work on fewer than all of the Units shall be borne by the Owners of those affected Units only, and any extraordinary insurance costs incurred as a result of the value of a particular Owner's Unit or the actions of a particular Owner or Owner's Agents shall be borne by that Owner. Notice in writing of the amount of such Special Assessments and the time for payment of the Special Assessments shall be given promptly to the Owners, and no payment shall be due less than ten (10) days after such notice shall have been given.

Section 11.6 Default Assessments. All monetary fines assessed against an Owner pursuant to the 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 Association Documents, shall be a Default Assessment. Notice in writing of the amount of such Default Assessment and the time for payment of the Default Assessment shall be given promptly to the Owners, and no payment shall be due less than ten (10) days after such notice shall have been given. If payment is not made on or before the date set forth in such written notice, the Default Assessment shall become a lien against such Owner's Unit, which may be foreclosed or otherwise collected as provided in this Declaration.

Section 11.7 Effect of Nonpayment; Assessment Lien. Any Assessment installment, whether pertaining to any Annual, Special or Default Assessment, which is not paid on or before five (5) days after the due date, shall be delinquent. If an Assessment installment becomes delinquent the Association, in its sole discretion, may take any or all of the following actions:

(i) Assess a late charge for each delinquency in such amount as the Association deems appropriate;

(ii) Assess an interest charge from the due date at the yearly rate of six (6) percentage points above the prime rate charged by the Association's bank, or such other lawful rate as the Board may establish, not to exceed the maximum rate allowable under applicable Colorado usury laws;

(iii) Suspend the voting rights of the Owner during any period of delinquency;

(iv) Accelerate all remaining Assessment installments so that unpaid Assessments for the remainder of the year or other predetermined assessment period shall be due and payable at once;

(v) Bring an action at law against any Owner personally obligated to pay the delinquent Assessments; and

(vi) Proceed with foreclosure as set forth in more detail below.

Subject to Section 17.1 below, Assessments chargeable to any Unit shall constitute a lien on such Unit. The Association may institute foreclosure proceedings against the defaulting Owner's Unit in the manner for foreclosing a mortgage on real property under the laws of the State of Colorado. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien, and all reasonable attorney's fees, court costs, and expert witness fees incurred in connection with the foreclosure of the lien and collection of the Assessments. The Owner shall be required to pay the Association the monthly assessment installments for the Unit during the period of any foreclosure. The Association shall have the power to bid on a Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

Section 11.8 Personal Obligation. Each Assessment against a Unit is the personal obligation of the person or persons who owned the Unit at the time the Assessment became due and shall also pass to successors in title. *By acceptance of a deed for a Unit, each Unit purchaser thereby consents to assume the joint obligation with the Unit Seller for all Assessments due against the Unit pursuant to this Section.* No Owner may exempt itself from liability for the Assessment by abandonment of the Owner's Unit or by waiver of the use or enjoyment of all or any part of the Common Elements. Suit to recover a money judgment for unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings and all reasonable attorney's fees incurred in connection therewith shall be maintainable without foreclosing or waiving the Assessment lien provided in this Declaration. This Section 11.8 is subject to the Mortgagee's Rights set forth in Section 17.1 below.

Section 11.9 Payment by Mortgagees. Any Mortgagee holding a lien on a Unit may pay any unpaid Assessment payable with respect to such Unit, together with any and all costs and expenses incurred with respect to the lien, and upon such payment that Mortgagee shall have a lien on the Unit for the amounts paid with the same priority as the lien of the Mortgage.

Section 11.10 Statement of Status of Assessment Payment. Upon payment of a reasonable fee set from time to time by the Board and upon written request to the Association's registered agent by personal delivery or certified mail, first-class postage prepaid, return receipt any Owner, designee of Owner, Agency, Mortgagee, prospective Mortgagee or prospective purchaser of a Unit shall be furnished with a written statement setting forth the amount of the unpaid Assessments, if any, with respect to such Unit. Unless such statement shall be issued by personal delivery or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party (in which event the date of posting shall be deemed the date of delivery) within

fourteen (14) calendar days after receipt of the request, the Association shall have no right to assert a lien upon the Unit over the inquiring party's interest for unpaid Assessments which were due as of the date of the request, but failure to so issue shall not relieve the Owner of the Unit of personal liability for such Assessment.

Section 11.11 Capitalization of the Association. The Association shall establish an initial working capital fund equal to two-twelfths (2/12) of the estimated Annual Assessments for Common Expenses for each Unit subject to the terms of this Declaration. The working capital fund may be used by the Association for emergencies, insurance deductibles in the event of casualty or other loss, capital expenditures for repair or replacement of Common Elements, and such other expenses which do not occur on a regular and on-going basis, as may be determined by a majority of the Board. The initial working capital fund shall be established and Annual Assessments shall commence upon the conveyance of the first Unit in the Project by Declarant to a third-party purchaser. Thereafter, Annual Assessments and the capital account shall be established in accordance with the provisions of the Declaration. Upon acquisition of record title to a Unit from Declarant and thereafter, each such new Owner shall contribute to the working capital fund of the Association an amount equal to two-twelfths (2/12) of the Annual Assessment determined by the Board for that Unit for the year in which the new Owner acquired title. Such payments shall not be considered advance payments of Annual Assessments. The working capital fund deposit made by such new Owner(s) shall be non-refundable. In the event Declarant pays into the working capital fund on behalf of a Unit prior to the initial sale of the Unit to an Owner, the new Owner shall reimburse such amount to Declarant upon the transfer of title to the Unit to such Owner and the Owner's contribution to the Association's working capital fund hereunder shall be reduced by such amount. The working capital fund must be maintained by the Association in a segregated account, and may not be used by the Declarant to defray any of its expenses, reserve contributions, or construction costs. Upon the sale of a Unit from one Owner to another, the Association shall not be obligated to return to the transferor any funds held in reserve, but the transferor shall be entitled to an appropriate credit from its transferee.

Section 11.12 Maintenance Accounts; Accounting. If the Association delegates powers of the Board or its officers relating to collection, deposit, transfer or disbursement of Association funds to other persons or to a Manager, then such other persons or Manager must: (a) maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the other person or Manager; (b) maintain all reserve and working capital accounts of the Association separate from the funds and operational accounts of the Association; (c) provide to the Association no less than once per month an accounting for the previous month, including a budget/actual reconciliation report; and (d) provide to the Association an annual accounting and financial statement, including a budget/actual reconciliation report, of Association funds.

ARTICLE 12—DAMAGE OR DESTRUCTION

Section 12.1 The Role of the Board. Except as provided in Section 10.7, in the event of damage to or destruction of all or part of any Common Elements improvement, or other property covered by insurance written in the name of the Association under Article 10, the Board shall arrange for and supervise the prompt repair and restoration of the damaged property (the property insured by the Association pursuant to Article 10 is sometimes referred to as the "Association-Insured Property").

Section 12.2 Estimate of Damages or Destruction. As soon as practicable after an event causing damage to or destruction of any part of the Association-Insured Property, the Board 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. "Repair and reconstruction" as used in this Article shall mean restoring the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction unless the provisions of Section 10.7 apply and approval is obtained by a fifty-one percent (51%) vote of First Mortgagees of Units a subject to First Mortgages (which percentage is measured by the vote allocated to such Units). Such costs may also include professional fees and premiums for such bonds as the Board or the insurance trustee, if any, determines to be necessary.

Section 12.3 Repair and Reconstruction. As soon as practical after the damage occurs and any required estimates have been obtained, the Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed Association-Insured Property. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction of any damage to the Association-Insured Property, and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

Section 12.4 Funds for Repair and Reconstruction. The proceeds received by the Association from any property insurance carried by the Association shall be used for the purpose of repair, replacement and reconstruction of the Association-Insured Property for the benefit of Owners and Mortgagees. If the proceeds of the Association's insurance are insufficient to pay the estimated or actual cost of such repair, replacement or reconstruction, or if upon completion of such work the insurance proceeds for the payment of such work are insufficient, the Association may, pursuant to Section 11.5, levy, assess and collect from the Owners without the necessity of a special vote of the Owners, 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, replacement or reconstruction.

Section 12.5 Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for above, 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, 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 Special Assessments, then in accordance with the Units' Allocated Interests, to the Mortgagee and then to the Owners, as their interests appear.

ARTICLE 13—CONDEMNATION

Section 13.1 Rights of Owners. Whenever all or any part of the Common Elements shall be taken by any authority having power of condemnation or eminent domain, or whenever all or any part of the Common Elements are conveyed in lieu of a taking under threat of condemnation by the Board acting as attorney-in-fact for all Owners under instructions from any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice of the taking or conveying. The Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

Section 13.2 Partial Condemnation; Distribution of Award; Reconstruction.

A. The award made for such taking shall be payable to the Association for the benefit of the Owners and Mortgagees and, unless otherwise required under the Act, the award shall be disbursed as follows.

B. Unless within sixty (60) days after such taking, Declarant and/or Owners who combined represent at least sixty-seven percent (67%) of the voting interest of the in the Association and fifty-one percent (51%) of First Mortgagees of Units subject to First Mortgages (which percentage is measured by the vote allocated to such Units) shall otherwise agree, if the taking involves a portion of the Common Elements on which improvements have been constructed, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Elements to the extent lands are available for such restoration or replacement in accordance with plans approved by the Board. If such improvements are to be repaired or restored, the provisions in Article 10 above regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Elements, or if there is a decision not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed among the Units according to the relative value of each Unit which shall be in accordance with each Unit's Allocated Interests, first to the Mortgagees and then to the Owners, as their interests appear.

Section 13.3 Complete Condemnation. If all of the Property is taken, condemned, sold or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration shall be deemed to be terminated thereby, and the portion of the condemnation award attributable to the Common Elements shall be distributed as provided in Section 12.5 above.

ARTICLE 14—ASSOCIATION AS ATTORNEY-IN-FACT

Section 14.1 Attorney-In-Fact. Each Owner hereby irrevocably appoints the Association as the Owner's true and lawful attorney-in-fact for the purposes of: (a) granting easements pursuant to Article 9; (b) purchasing and maintaining insurance pursuant to Article 10, including the collection and appropriate disposition of the proceeds thereof, the negotiation and settlement of losses and execution of releases of liability, the execution of all documents, and the performance of all other acts necessary to Purchase and maintain insurance as well as dealing with any improvements covered by insurance written in the name of the Association pursuant to Article 10 upon their damage or destruction as provided in Article 12; or (c) negotiating and dealing with any authority having the power of condemnation or eminent domain relating to a complete or partial talking as provided in Article 13 above. Acceptance by a grantee of a deed or other instrument of conveyance or any other instrument conveying a portion of the Property shall constitute appointment of the Association as the grantee's attorney-in-fact and the Association shall have full 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 to exercise the powers granted to the Association as attorney-in-fact.

ARTICLE 15—RESERVED DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS

Notwithstanding any provision in this Declaration to the contrary, the rights reserved to Declarant in this Article may be exercised by Declarant without the consent of the Association, or of the Owners or Mortgagees of Units not owned by Declarant.

Section 15.1 Reservation of Subdivision Rights. Pursuant to the Act, Declarant reserves the right for itself and any Successor Declarant to modify, expand, or contract any Unit, and to subdivide or convert a Unit that it owns into additional Units, Common Elements or a combination of same, subject however to applicable governmental statutes, ordinances and codes.

Section 15.2 Create Limited Common Elements. Declarant reserves the right for itself and any Successor Declarant to create Limited Common Elements upon the recording in the office of the Clerk and Recorder of a certificate executed by the Declarant that identifies the Limited Common Element by reference to the Map and the Unit to which it is allocated.

Section 15.3 Other Reserved Rights. Declarant reserves the right for itself and any successor Declarant: (a) to complete improvements indicated on the plats and Maps, (b) to maintain and relocate sales offices, management offices, signs advertising the Project and Units, within one or more Units and within the General Common Elements, (c) perform any repairs or modification necessary to remedy any design or construction defects, and (d) to appoint or remove any officer of the Association or any Board member during the period of Declarant Control as set forth in Section 5.4 above. Declarant shall be free to convey, transfer or sell its retained development rights subject to the terms of this Declaration. Prior to exercising any reserved development right or reserved Declarant right which entails substantial modification of any portion of the Project, and except in the event of performing any emergency repair or

modification, Declarant shall provide each Owner with ten (10) days advance written notice thereof, and shall reasonably attempt to cooperate in good faith with respect to the legitimate concerns of such Owner(s).

Section 15.4 Change in Allocated Interests. In the event Declarant or Successor Declarant exercises the right to modify, add or subdivide Units as set forth above, the Allocated Interests of the Units after such addition, or subdivision shall be adjusted. Declarant shall record an amendment to this Declaration and the Map to reflect any such changes, in accordance with the Act.

Section 15.5 Termination of Rights. Unless otherwise provided herein or required by the Act, the rights reserved to the Declarant for itself, its successors and assigns in this Article shall expire upon the earlier of (a) the sale or other transfer of the last Unit owned by Declarant, or (b) five (5) years from the recording of this Declaration with the Clerk and Recorder, unless such rights are (i) extended as allowed by law or (ii) reinstated or extended by the Association, subject to whatever terms, conditions and limitations the Board may impose on the subsequent exercise of the rights by Declarant.

ARTICLE 16—ARCHITECTURAL CONTROL AND DESIGN REVIEW

Section 16.1 Alterations. Except for Declarant's reserved rights as hereinabove described no alteration or additions to the Common Elements of any kind shall be made unless first approved in writing by the Board, including without limitation structural, textural and color changes to walls, doors and windows. The Board shall exercise reasonable judgment so that all modifications to the Common Elements conform to and harmonize with existing surroundings and structures and do not degrade the property values of the Units. The Board has the absolute right to deny any requested changes, which the Board reasonably determines, do not conform to and harmonize with existing surroundings and structures. All construction activities shall be planned and carried out with a minimum of disruption, unsightliness and noise.

Section 16.2 Architectural Review. The Board shall be responsible to the extent it deems necessary or appropriate, for the establishment and administration of Design Guidelines (the "Design Guidelines") to carry out the purposes and intent of this Declaration. The Board may seek the advice of design professionals or other professionals if the need should arise. The Board may adopt, establish and publish from time to time the Design Guidelines for the Project and such Design Guidelines shall be an Association Document, the terms of which shall be complied with by all Owners. The Design Guidelines shall not be inconsistent with this Declaration, but shall more specifically define and describe the design standards for the Project including, but not limited to, items such as color, texture, structure, size, design, appearance, window coverings, antennae, landscaping and site improvement standards. The Design Guidelines may be modified or amended from time to time by majority approval of the Board and shall be made available to all Owners and their representatives for review. Further, the Board, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements. Compliance with the Project's design review process and design standards is not a substitute for compliance with Town or County building, zoning, and subdivision regulations and

each Owner is responsible for obtaining all approvals, licenses, and permits as may be required prior to commencing constriction. In the event of a conflict between the terms of this Declaration and the Design Guidelines, the terms of this Declaration shall control.

Section 16.3 Requirement for Approval. Except for any improvements performed by Declarant pursuant to Article 15, no improvements shall be constructed, erected, placed, altered, maintained or permitted on any part of the Common Elements, nor shall any construction or excavation whatsoever be commenced or materials, equipment or construction vehicles be placed on any part of the Common Elements until plans and specifications with respect thereto satisfactory to the Board showing the proposed improvements, site location of such improvements, complete building plans and material specifications, and all exterior elevations, materials and colors, landscaping, grading, drainage, easements and utilities, and such other information as may be requested by the Board have been submitted to and approved in writing by the Board. All improvements shall be constructed only in accordance with approved plans. If the Board has not responded to an Owner's request for approval within forty-five (45) days of the submission by Owner of all information requested by the Board, then such Owner's request shall be deemed approved by the Board. Non-structural improvements and alterations, which are completely within an existing Unit, may be undertaken without such approval, by and at the cost of the Owner. All such improvements shall be insured by and at the cost of the Owner. An Owner undertaking such improvements shall indemnify the Association and the other Owners against any and all costs or damages attributable to the construction or existence of such improvements.

Section 16.4 Violation. The Association, upon the unanimous approval by the Board and after reasonable notice to the offender and to the Owner, may remove any improvements constructs reconstructed, refinished, altered, or maintained in violation of these covenants, and the Owner of the improvements shall immediately reimburse the Association for all expenses incurred in connection with such removal. Failure to timely reimburse the Association shall be deemed a Default Assessment with payment thereof subject to the provisions of Article 11.6.

Section 16.5 Criteria for Approval. The Board shall approve any proposed improvement only if it deems in its reasonable discretion that the improvements in the location indicated will not be detrimental to the appearance of the surrounding areas of the Project as a whole; that the appearance of the proposed improvement will be in harmony with the surrounding areas of the Project; and that the upkeep and maintenance of the proposed improvement will not become a burden on the Association. Specific factors considered in approving plans include, among other things, conformity and harmony of exterior design, colors and materials with neighboring structures, relation of the proposed improvements to the natural topography, adequacy of drainage, erosion control, easements and utilities, and such other information as may be requested by the Board.

Section 16.6 Fees. An Owner seeking architectural review approval shall promptly pay to the Association any fees set by the Board in connection with the review process, and shall reimburse the Association for all of its costs relating to review and ongoing, monitoring of construction, including the costs of staff and independent consultant review and assistance, as determined by the Association. The Association may assess these fees and costs against the

Owner and the Unit as Default Assessments in the event the Owner fails to timely pay these fees and costs.

ARTICLE 17—MORTGAGEES' RIGHTS

The following provisions are for the benefit of holders, insurers or guarantors of any Mortgages on Units. To the extent permitted under Colorado law and applicable, necessary or proper, the provisions of this Article apply to this Declaration and also to the Articles, Bylaws and rules and regulations of the Association.

Section 17.1 Title Taken by Mortgagee. Any Mortgagee holding any Mortgage of record. against a Unit who obtains title to the Unit pursuant to remedies exercised in enforcing the Mortgage, including foreclosure of the Mortgage or acceptance of a deed in lieu of foreclosure, will be liable for all Assessments which become due and payable after the date title to the Unit is acquired and for those annual Assessments accrued during the six (6) months immediately preceding the date title to the Unit is acquired. The lien of the Association for unpaid assessments shall not have priority over a Mortgage in the amount of more than six (6) months of regular common expense assessments. A Mortgagee or Agency that acquires title to a Unit through foreclosure of a Mortgage will not be liable for any fees or charges related to the collection of the six (6) months of unpaid Assessments that accrued before the Mortgagee or Agency acquired title to the Unit.

Section 17.2 Distribution of Insurance or Condemnation Proceeds. In the event of a distribution of insurance proceeds or condemnation awards allocable among the Units for losses to, or taking of, all or part of the Common Elements, neither the Owner nor any other person shall take priority in receiving the distribution over the right of any Mortgagee who is a beneficiary of a Mortgage against a Unit.

Section 17.3 Right to Pay Taxes and Charges. Mortgagees who hold Mortgages against Unit(s) may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Elements, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such Common Elements, and Mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

Section 17.4 Audited Financial Statement. Upon written request from any Agency or Mortgagee which has an interest or prospective interest in any Unit or the Project, the Association shall prepare and furnish within one hundred and twenty (120) days an audited Financial statement of the Association for the immediately preceding fiscal year at the expense of such Agency or Mortgagee.

Section 17.5 Notice of Action. Any First Mortgagee and any Agency which holds, insures, or guarantees a First Mortgage, upon written request to the Association (which shall include the Agency's or First Mortgagee's name and address and the Unit number), will be entitled to timely written notice of:

17.5.1 Any proposed amendment of the Association Documents effecting a change in (a) the boundaries of any Unit, or the exclusive easement rights appertaining thereto, (b) the interest in the Common Elements appurtenant to the Unit, or the liability of Assessments relating thereto, (c) the vote in the Association relating to any Unit, or (d) the purposes to which any Unit or the Common Elements are restricted or any amendment set forth in Section 18.2 below;

17.5.2 Any proposed termination of the common interest community (except as provided in Section 13.3);

17.5.3 Any condemnation loss or any casualty loss which affects a material portion of the Project or which affects any Unit on which there is a Mortgage held, insured or guaranteed by such Agency (except as provided in Section 13.3);

17.5.4 Any delinquency in the payment of Assessments owed by an Owner subject to the Mortgage where such delinquency has continued for a period of sixty (60) days;

17.5.5 Any lapse, cancellation or material modification of any insurance policy maintained by the Association pursuant to Article 10.

Section 17.6 Action by Mortgagee. If this Declaration or any Association Documents require the approval of any Agency or Mortgagees then, if any Mortgagee fails to respond to any written proposal for such approval within thirty (30) days after such Mortgagee receives proper notice of the proposal (or such longer time as may be set forth in the notice), such Mortgagee shall be deemed to have approved such proposal provided that the notice was delivered to the Mortgagee by certified or registered mail, return receipt requested.

ARTICLE 18—DURATION OF COVENANTS AND AMENDMENT

Section 18.1 Term. The covenants and restrictions of this Declaration shall run with and bind the Project in perpetuity, subject to the termination provisions of the Act. Except as otherwise provided herein, the consent of Owners holding at least sixty-seven percent (67%) of the vote interest of the Association and the approval of First Mortgagees of Units to which at least sixty-seven percent (67%) of the votes in the Association appertain, shall be required to terminate this Condominium regime.

Section 18.2 Amendment. Except for amendments otherwise permitted to be undertaken by Declarant hereunder or pursuant to the Act, and except as expressly provided below, this Declaration, or any provision of it, may be amended at any time by (a) Owners holding more than sixty seven (67%) of the votes (i.e., the voting interest percentages) in the Association, and (b) provided a First Mortgagee has requested notice in accordance with Section 17.5 above, the additional approval of fifty-one percent (51%) of First Mortgagees of Units subject to a First Mortgage (which percentage is measured by the vote allocated to such Units), if the amendment to the Association Documents modifies, adds or deletes any material provisions which establish, provide for, govern or regulate any of the following:

18.2.1 Reserves for maintenance or repair and replacement of the Common Elements (66.66 % Owner vote required);

18.2.2 Boundaries of any Unit (66.66 % Owner vote required);

18.2.3 Imposition of any restrictions on the leasing of Units (66.66 % Owner vote required);

18.2.4 Any provision which is for the express benefit of an Agency or Mortgagee, regardless of whether the amendment is material (66.66 % Owner vote required);

Section 18.3 Amendment Procedure. Any amendment must be executed by the President of the Association and recorded in the real property records of the County of San Miguel, and approval of such amendment may be shown by attaching a certificate of the Secretary of the Association to the recorded instrument certifying the approval of a sufficient number of Owners to the amendment. Notwithstanding the foregoing, Declarant acting alone, reserves to itself the right and power to modify and amend this Declaration and the Map to the fullest extent permitted under the Act and this Declaration including without limitation:

18.3.1 Declarant may amend the Declaration, a plat or a Map to correct clerical, typographical errors, or technical errors;

18.3.2 Declarant may amend the Declaration to comply with the requirements, standards or guidelines of recognized secondary mortgage markets and Agencies; and

18.3.3 Declarant may amend this Declaration as provided in Article 15 hereof.

ARTICLE 19—LIMIT ON TIMESHARING

Section 19.1 Limit on Time-Sharing. No Owner of any Unit shall offer or sell any interest in such Unit under a "timesharing" or "interval ownership" plan, or any similar plan.

ARTICLE 20—GENERAL PROVISIONS

Section 20.1 Restriction on Declarant Powers. Notwithstanding anything to the contrary herein, no rights or powers reserved to Declarant hereunder shall exceed the time limitations or permissible extent of such rights or powers as restricted under the Act. Any provision in this Declaration in conflict with the requirements of the Act shall not be deemed to invalidate such provision as a whole but shall be adjusted as is necessary to comply with the Act.

Section 20.2 Enforcement. Except as otherwise provided in this Declaration, the Board, Declarant or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Board or the Association, Declarant or by any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

Section 20.3 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 20.4 Conflict Between Documents. In case of conflict between this Declaration and the Articles and the Bylaws of the Association, this Declaration shall control. In case of conflict between the Articles and the Bylaws, the Articles shall control.

Section 20.5 Alternative Dispute Resolution. The purpose of the Declaration is to establish a harmonious Community through the prompt, efficient, fair and non-belligerent resolution of certain disputes. All disputes (other than the collection and enforcement of assessments) arising out of or relating to this Declaration, or a breach thereof between (1) the Declarant in its capacity as Declarant and the Association following the end of the period of Declarant Control, or (2) the Association and any Owner(s), shall be resolved as set forth in this Article. At the option of all parties to any other type of dispute, if the dispute does not involve the Declarant in its capacity as Declarant and arises out of or relating to this Declaration, or a breach thereof, or any other dispute between (1) the Owners, or (2) the Association or any Owner, the dispute may be resolved as set forth in this Article.

20.5.1 Direct Communication. The parties to the disagreement shall set forth their respective positions in the dispute in correspondence. Each party shall respond within seven days after receipt of a letter from the other until agreement is reached.

20.5.2 Mediation. If the dispute cannot be resolved through direct communication of the parties, either party may request appointment of a neutral and properly credentialed mediator. Both parties shall participate in the mediation in good faith until the dispute is resolved for a period not to exceed thirty days with the consent of all parties. The cost of the mediation shall be divided equally among the parties.

20.5.3 Arbitration.

(a) Method. If the dispute cannot be resolved through mediation, either party may request appointment of one or more neutral and properly credentialed arbitrators with expert knowledge and experience regarding the subject in dispute. The initiating Person shall give written notice of its decision to arbitrate by providing a specific statement setting forth the nature of the dispute, the amount involved and the remedy sought. The initiating Person shall be responsible for all filing requirements and the payment of any fees according to the rules of the regional office of the American Arbitration Association. The parties shall have an equal and fair opportunity to present their respective positions to the arbitrators, orally or in writing, as the arbitrators may specify depending on the nature of the dispute. The arbitrators may require such testimony, materials and documentation as they may determine to be appropriate. The arbitrators shall provide a written resolution within thirty (30) days after the conclusion of the presentations of the parties and receipt of requested materials and documents. Any dispute shall be settled by binding arbitration administered by the American Arbitration Association.

(b) Costs. The arbitrator shall award to the prevailing party, if any, as determined by the arbitrator, all of its costs and expenses including any attorney's fees, arbitrator's fees, expert witness fees, and out-of-pocket expenses of any kind. The term "prevailing party" shall mean the party whose position is most nearly upheld in arbitration.

(c) Binding Nature; Applicable Law. The consideration of the parties to be bound by arbitration is not only the waiver of access to determination by a court and/or jury, but also the waiver of any rights to appeal the arbitration finding. A judgment upon an award rendered by the arbitrator may be entered in any court having jurisdiction.

Section 20.5.4 Location. The alternative dispute resolution proceeding shall be held within San Miguel County, Colorado unless otherwise mutually agreed by the parties.

Section 20.5.5 Sole Remedy; Waiver of Judicial Rights. The Declarant, the Association, and each Owner expressly consent to the procedures established in this Article to the extent applicable as their sole and exclusive remedy, and expressly waive any right they may have to seek resolution of any dispute contemplated by this Article in any court of law or equity, and any right to trial by judge or jury. If a dispute involves the Declarant or the Association, no Person shall file a memorandum of lis pendens or similar instrument that would encumber or create a lien upon the land owned either by the Declarant or the Association. Nothing herein shall be construed to prevent the Association from proceeding to record a lien or to foreclose the same by judicial proceeding.

THIS DECLARATION is executed as of the 8th day of Oct., 2003.

DECLARANT:

RAYMOND A. MESSIER
/s/ _____
Printed Name: Raymond A. Messier

LINDA I. MESSIER
/s/ _____
Printed Name: Linda I. Messier

STATE OF COLORADO)
) ss.
COUNTY OF San Miguel)

The foregoing instrument was acknowledged before me this 8th day of Oct. by Raymond A. Messier and Linda I. Messier.

Witness my hand and official seal.

My commission expires: My Commission Expires 01/16/2007

YVONNE CARROLL NOTARY PUBLIC STATE OF COLORADO

COLUMBIA WEST CONDOMINIUMS

EXHIBIT A
PROPERTY DESCRIPTION

Lot 14, San Juan Village P.U.D./Subdivision, according to the Plat filed of record in the office of the Clerk and Recorder in Plat Book 1 at page 2043, and according to the Subdivision Vicinity Map and Certificates Correction Plat for San Juan Village P.U.D./Subdivision, Town of Telluride, according to the plat filed of record in the office of the Clerk and Recorder in Plat Book 1 at page 2122,

County of San Miguel County,
State of Colorado.

Subject to the following encumbrances, restrictions and exceptions:

1. Unpatented mining claims; reservations or exceptions in patents, or an act authorizing the issuance thereof; water rights, claims or title to water.

2. Taxes for the year 2003 and subsequent years, a lien not yet due and payable.

3. Ordinance No. 1028 (Series of 1995) concerning the San Juan Village Planned Unit Development/Subdivision, recorded May 1, 1996 in Book 561 at Page 112; subject to the terms, conditions, provisions and obligations contained therein.

4. Resolution #1996-12 of the Town Council of the Town of Telluride approving a request by Bantham, LLC to extend vested rights for the project for one year, recorded May 1, 1996 in Book 561 at Page 116; SUBJECT TO the terms, conditions, provisions and obligations contained therein.

5. Bargain and Sale Deed, recorded May 1, 1996 in Book 561 at Page 121; subject to the terms, conditions, provisions and obligations contained therein.

6. Bargain and Sale Deed, recorded May 1, 1996 in Book 561 at Page 132; subject to the terms, conditions, provisions and obligations contained therein.

7. Notice regarding San Juan Village, recorded May 1, 1996 in Book 561 at Page 135; subject to the terms, conditions, provisions and obligations contained therein.

8. Vacation of Easement and Easement Agreement, recorded May 1, 1996 in Book 561 at Page 139; subject to the terms, conditions, provisions and obligations contained therein.

9. Easements, restrictions, reservations, rights of way and all other matters as disclosed on the plat of San Juan Village P.U.D./Subdivision recorded in Plat Book 1 at Page 2043; Affidavit to Correct Plat recorded June 28, 1996 in Book 563 at Page 969; and the Subdivision Vicinity

Map and Certificates Correction Plat for San Juan Village P.U.D./Subdivision, recorded in Plat Book 1 at Page 2122.

10. Reservations, conditions, powers of attorney, easements, options, covenants, agreements and limitations on title, and all other provisions contained in, or incorporated by reference into the Declaration of Covenants, Conditions and Restrictions of San Juan Village, recorded May 1, 1996 in Book 561 at Page 142, as amended or supplemented.

11. Development Agreement for San Juan Village recorded May 1, 1996 in Book 561 at Page 182, AMENDMENT TO DEVELOPMENT AGREEMENT, recorded September 23, 1996 in Book 568 at Page 43; LETTER concerning Subdivision Improvements Agreement, recorded December 13, 1996 in Book 572 at Page 878; THIRD AMENDMENT TO DEVELOPMENT AGREEMENT, recorded October 9, 1997 in Book 588 at Page 42; subject to the terms, conditions, provisions and obligations contained therein.

12. Bargain and Sale Deed, recorded May 1, 1996 in Book 561 at Page 209; subject to the terms, conditions, provisions and obligations contained therein.

13. Alley Maintenance Agreement, recorded May 1, 1996 in Book 561 at Page 213; subject to the terms, conditions, provisions and obligations contained therein.

14. Dedication of Easement, recorded May 1, 1996 in Book 561 at Page 227; subject to the terms, conditions, provisions and obligations contained therein.

15. Bargain and Sale Deed recorded June 28, 1996 in Book 563 at Page 970; subject to the terms, conditions, provisions and obligations contained therein.

16. Landscape Agreement recorded September 23, 1996 in Book 568 at Page 40; subject to the terms, conditions, provisions and obligations contained therein.

17. Maintenance Agreement by and between the Town of Telluride and the San Juan Village Owners Association, Inc., a Colorado nonprofit corporation, recorded November 15, 1996 in Book 571 at Page 19; subject to the terms, conditions, provisions and obligations contained therein.

COLUMBIA WEST CONDOMINIUMS

EXHIBIT B
ALLOCATED INTERESTS

Unit #	*Square Footage of Unit*	*For All Units: Percentage of Common Expenses Liability and General Common Element Ownership*	*Voting Interest Percentage*
Unit A	2,262 square feet	53.69%	33.33
Unit B	339 square feet	08.05%	33.33
Unit C	1,612 square feet	38.26%	33.33
TOTALS:	***4,213 square feet***	***100%***	***100%***