

**DECLARATION OF GRANTS,
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE WILLOW CONDOMINIUMS,
A CONDOMINIUM COMMON INTEREST COMMUNITY**

Burton Borman and Navabeh Pezeshkan, each as to an undivided 50% Tenants-in-Common interest (jointly, the "Declarant"), with an office at 220 East Colorado Avenue, Suite 201, Telluride, Colorado 81435, as the owners of that certain real property, and grantees under those certain easements, located in the Town of Telluride, San Miguel County, State of Colorado, more particularly described in Exhibit "A," attached hereto and incorporated herein by this reference (the "Land"), together with the Improvements thereon (as this term is defined below), hereby makes the following grants, submissions and declarations:

**ARTICLE I
STATEMENT OF INTENT AND PURPOSE**

1.1 Authority. This condominium Declaration (as defined below) is executed to submit the Land and all Improvements constructed thereon to condominium ownership and use in accordance with (i) the Colorado Common Interest Ownership Act, Colorado Revised Statutes Title 38, Article 33.3, as amended, (the "Act"), and (ii) the Colorado Nonprofit Corporation Act, Colorado Revised Statutes Title 7, Articles 20 - 29, as amended (the "Corporation Act"), both of which shall be hereinafter jointly referred to as the "Condominium Laws," as the same may be amended from time to time.

1.2 Declaration. Declarant hereby declares that the following terms, covenants, conditions, easements, restrictions, uses, reservations, limitations and obligations shall be deemed to run with the Land and shall be binding upon and accrue to the benefit of Declarant, its successors and assigns, and any person or entity acquiring and holding an interest in the Community, as defined below, as well as their respective grantees, successors, heirs, personal representatives, or assigns.

1.3 Purpose. Declarant has caused the Association (as defined below) to be incorporated under the laws of the State of Colorado, for the purpose of exercising the functions of the condominium owners' association, as hereinafter set forth. Declarant desires to create a condominium common interest community on the real estate described in Exhibit "A," the name of which is "The Willow Condominiums, a condominium common interest community." Those portions of the real estate described in Exhibit "B" attached hereto and incorporated herein by this reference, are hereby designated for separate ownership, with the remainder of the Land and Improvements to be designated for either general or limited common ownership solely by the owners of the separate ownership portions. Declarant executes this Declaration to define the character, duration, rights, duties, obligations and limitations of condominium ownership.

**ARTICLE 2
DEFINITIONS**

The following definitions shall apply in this Declaration and the exhibits attached hereto unless the context shall expressly provide otherwise:

2.1 Articles of Incorporation means the Articles of Incorporation for the Association, as filed with the Colorado Secretary of State and amended from time-to-time.

2.2 Assessments means all General Assessments and Special Assessments.

2.3 Association means the Willow Condominiums Owners' Association, Inc., a Colorado

nonprofit corporation, its successors and assigns, of which all Owners of Units shall be Members (as defined below), and which Association shall be charged with the management and maintenance of the Community.

2.4 Board means the Association Board of Directors, designated as the body governing the affairs of the Association and elected by the Members, all pursuant to the Corporation Act, this Declaration and the Articles of Incorporation and Bylaws.

2.5 Building means that portion of the Improvements consisting of the physical building structure and appurtenant components and described as such on the Condominium Map.

2.6 Bylaws means the Bylaws of the Association, as adopted by the Association and amended from time-to-time.

2.7 Commercial Unit means a Unit designated as a "Commercial Condominium Unit" on the Condominium Map, which designation shall include the singular and plural. Subject to the provisions of Section 3.3.1 below, the Owners of these designated Commercial Units shall have the absolute right to further subdivide the initial five designated Commercial Units into a total of up to ten total Commercial Units.

2.8 Common Elements means and refers to the General Common Elements and Limited Common Elements, which includes all of the Community outside of the Units.

2.9 Common Expenses means and includes:

2.9.1 Expenses declared common expenses by provisions of this Declaration.

2.9.2 Expenses of administration, operation and management, maintenance, repair or replacement of the Common Elements, including, but not limited to, insurance, security and utilities attributable to the operation of the Common Elements.

2.9.3 All sums lawfully assessed against the Units by the Association for use in connection with the Common Elements.

2.9.4 Other expenses agreed upon as common expenses by all the Owners.

2.10 Community means the condominium community submitted to condominium ownership by this Declaration, and which may be subsequently submitted to condominium ownership under the terms of this Declaration or any subsequent declaration, pursuant to the Condominium Laws and as herein provided, on the Land and including the Improvements, and all rights, easements and appurtenances thereto. This Community shall be named, "THE WILLOW CONDOMINIUMS, A CONDOMINIUM COMMON INTEREST COMMUNITY." This name may be amended from time-to-time by the Association.

2.11 Community Documents means this Declaration, including the Condominium Map, the Articles of Incorporation, the Bylaws, and the Rules and Regulations.

2.12 Condominium Laws are defined in Section 1.1 above and means both (i) the Colorado Common Interest Ownership Act as amended, and (ii) the Colorado Nonprofit Corporation Act, as amended.

2.13 Condominium Map means the map for the Community and includes the engineering

survey or surveys of the Land, locating thereon the Improvements, the floor plans and other drawings or diagrammatic plans, including, without limitation, charts or schedules depicting all or part of the Improvements on the Land and such other information as shall be required by the Condominium Laws and as may be included thereon, in the discretion of the Declarant. The Condominium Map will be filed for record in the Office of the Clerk and Recorder of San Miguel County, State of Colorado. The Condominium Map may be filed for record in parts or sections and may be supplemented or amended as provided herein.

2.14 Condominium Property means the Land and all Improvements and future Improvements and added land, if any, and all appurtenant rights thereto created by this Declaration.

2.15 Declarant means Burton Borman and Navabeh Pezeshkan, their successors and assigns.

2.16 Declaration means this Declaration of Grants, Covenants and Restrictions Establishing a Plan for Condominium Ownership of The Willow Condominiums, a Condominium common interest community, and any and all duly executed amendments, supplements, or additions of this Declaration, recorded in the office of the Clerk and Recorder of San Miguel County, State of Colorado and otherwise filed of public record including, without limitation, any maps, plats or documents incorporated by reference herein.

2.17 First Mortgagee means the holder of any recorded Mortgage under which the interest of any Owner is encumbered and which Mortgage is the first and paramount security interest priority.

2.18 General Assessments means all assessments levied upon all of the Units, including: annual Common Expenses assessments, insurance assessments, utility assessments, and such other assessments as shall be imposed by the Association, in accordance with the Declaration and/or any other applicable Community Documents.

2.19 General Common Elements means and includes all of the Community, except (a) portions of the Condominium Property contained entirely within a Unit, and/or (b) portions of the Community which are designated as Limited Common Elements. This includes, without limitation, the following:

2.19.1 The Land;

2.19.2 The structural components of the Improvements, the main or bearing walls of the Building and the main or bearing sub-flooring and roofs of the Building, including, but not limited to: the foundations, columns, girders, beams, supports, exterior walls, fire walls, perimeter walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits, delivery docks, partition walls, non-perimeter floors, non-perimeter division walls, crawl space, heat ducts, and (except as otherwise indicated) basements, attic spaces, and storage spaces;

2.19.3 The exterior walls, the main or bearing walls within the Building including such bearing walls as are located within a Unit, and the main load bearing sub-flooring and roofs of the Building, windows and exterior doors of an individual air space Unit;

2.19.4 All sidewalks, roads, driveways, yards, gardens, planters, and decks/patios designated as General Common Elements;

2.19.5 Any installations consisting of equipment and materials making up any central utility and communication services (including all pipes, ducts, flues, wires, cable and conduit used in connection with such items, whether located in common areas or within Units), including such services as

power, light, gas, hot and cold water, heating, refrigeration, central air conditioning, incinerating, and such central service support structures as are located within or without a Unit; the elevators, tanks, pumps, motors, fans, compressors and ducts;

2.19.6 In general, all apparatus and installations existing or provided for common use;
and

2.19.7 All other parts of the Community, Land and Improvements necessary or convenient to the existence, maintenance and safety of the Community, or normally in common use.

2.20 Improvements means all structures and improvements located above, on or below the surface of the Land, including the Building and all sidewalks and utility installations constructed pursuant to this Declaration.

2.21 Land means that certain fee simple real property comprising the underlying ground and easement, situated in the Town of Telluride, San Miguel County, Colorado, as further described on the attached Exhibit "A."

2.22 Limited Common Elements means those portions of the Common Elements as are designated and reserved for the exclusive use by the Owner of a particular Unit or Units, but less than all of the Units, which Limited Common Elements are deemed to be inseparable appurtenances to such Unit or Units. By way of illustration, but not limitation, any platform, balcony, deck, terrace, porch, patio, stairs, hallway, parking and/or storage area which is identified on the Condominium Map by legend, symbol or word as a Limited Common Element of a specified Unit or Units to which they are appurtenant, shall, without further reference thereto, be used in connection with such Unit or Units to the exclusion of other Owners of Units, except by invitation. In describing a Unit, no separate reference to Limited Common Elements need be made in any lease, assignment of lease, sublease, deed, Mortgage, or other instrument.

2.23 Marketing Period means the period of Declarant control over the Association and is further defined in Section 15.4 below.

2.24 Member means any person, firm, corporation, partnership, association, trust or other legal entity including Declarant, or any number of combinations thereof (the "Persons") who own(s) one or more Units and automatically therefore is a member of the Association.

2.25 Mortgage means any real estate mortgage, deed of trust, or security instrument by which a Unit is encumbered.

2.26 Owner means any person, firm, corporation, partnership, association, or other entity, including Declarant, or any number of combinations thereof who own(s) one or more Units. The term "Owner" shall not refer to any mortgagee, unless such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

2.27 Residential Unit(s) means a Unit designated as a Residential Unit(s) 301 or 302 on the Condominium Map, which designation shall include the singular and plural.

2.28 Rules and Regulations means those certain rules, regulations, policies and guidelines adopted by the Association and amended from time-to-time, governing the use of the Community.

2.29 Special Assessments means all assessments levied upon all of the Units within one or more

of the Unit Categories for special purposes such as capital improvements, reserve funding, amenities, etc., including specified Common Expenses, and such other assessments for special purposes as shall be imposed by the Association, in accordance with the Declaration and/or any other of the Community Documents.

2.30 Unit(s) means both (a) the Residential Units, and (b) the Commercial Units, each separately owned in fee simple. Each Unit shall consist of an individual air space, contained within the unfinished interior surfaces of the perimeter walls, floors (or the lowermost floor, if it is in an individual air space Unit containing more than one level), ceilings (or the uppermost ceiling, if it is an air space containing more than one level), windows and doors of each Unit as designated and described on the Condominium Map, together with all fixtures and Improvements therein contained or subsequently installed following recordation of the Condominium Map, the interior non-supporting portion of perimeter door jams and window wells, and the interior non-supporting and nonbearing walls, lofts and stairways within the air space, but not including (i) any of the structural components of the Improvements or other General Common Elements, if any, located within the air space Unit, or (ii) the perimeter walls, floors, ceilings, windows, or doors enclosing an air space Unit. The unfinished interior surfaces of perimeter walls, floors and ceilings, as used herein, shall not include any drywall or other wallboard treatment, paint, carpeting, wallpaper, paneling or other decorator treatment. The interior surfaces of a window or door means the points at which such surfaces are located when such windows or doors are closed.

ARTICLE 3 ESTABLISHMENT OF CONDOMINIUM OWNERSHIP

3.1 Units. The Community shall initially be comprised of seven separately designated Units, (i) five as Commercial Units, and (ii) two as Residential Units, together with an undivided percentage interest in the General Common Elements being held by all of the Owners of the Units as tenants-in-common according to the percentage interest assigned to each Unit on Exhibit "B," and any Limited Common Elements designated and reserved to such Unit, as set forth on the Condominium Map. Each Unit shall be identified on the Condominium Map by the number shown in Exhibit "B" and, in no event shall the Community consist of more than ten total Units, two Residential and ten Commercial Units.

3.2 Use of General Common Elements. Subject to the limitations herein contained, any Owner shall have the nonexclusive right to use and enjoy the General Common Elements.

3.3 Subdivision of Commercial Units. No Unit may be subdivided into two or more Units, except as follows:

3.3.1 Declarant reserves unto itself and the successor Owners of the Commercial Units the right, to be held by the Declarant and any other person at any time owning a Commercial Unit, to combine adjoining Commercial Units, divide, or partition such Commercial Unit or Commercial Units to create spaces either larger or smaller than such Unit or Units as shown on the Condominium Map for the purposes of either conveying or leasing. The exercise of such right shall not increase or decrease the percentage ownership in the Common Elements of, or the percentage of Common Expenses to be paid by, any Unit or Owner not involved in such combination, division, or partition.

3.4 Covenants Running with the Land. All provisions of this Declaration shall be deemed to be covenants running with the Land, or as equitable servitudes, as the case may be, and shall inure to the benefit of and be binding upon Declarant, its transferees, successors, and assigns, and to all Persons hereafter acquiring or owning any interest in the Community or any Unit, regardless or how such interest may be acquired.

ARTICLE 4

INSEPARABILITY OF A UNIT

Each Unit and its appurtenant undivided interest in the General Common Elements, the easements appurtenant thereto, and the exclusive use of the Limited Common Elements designated for such Unit shall together comprise one Unit which shall be inseparable and may be conveyed, assigned, leased, devised or encumbered only as a Unit, except as in Section 3.3 above.

ARTICLE 5
CONDOMINIUM MAP

5.1 Filing of Condominium Map. Prior to any conveyance by Declarant of a Unit, Declarant shall cause to be filed for record in the office of the Clerk and Recorder of San Miguel County, Colorado, a Condominium Map, approved by the Town of Telluride, which shall contain a sufficient survey description of the air space of each Unit so as to locate the same accurately and properly. The Condominium Map may be filed in whole or in parts or sections, from time to time, as stages of construction of the Units and other Improvements are substantially completed. Each section of the Condominium Map filed subsequent to the first filed Condominium Map shall be termed a Supplemental Condominium Map to the Condominium Map and the numerical sequence of such Supplement shall be shown thereon. The Condominium Map shall depict and show at least the following:

- 5.1.1 The name and a general schematic map of the entire Community;
- 5.1.2 The location and dimensions of all real estate not subject to development rights, or subject only to the development right to withdraw, and the location and dimensions of all existing Improvements within that real estate;
- 5.1.3 A legally sufficient description of any real estate subject to development rights, labeled to identify the rights applicable to each parcel;
- 5.1.4 The extent of any existing encroachments across any Community boundary;
- 5.1.5 To the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the Community;
- 5.1.6 A legally sufficient description of any real estate in which the Owners will own only an estate for years, labeled as "leasehold real estate";
- 5.1.7 The distance between noncontiguous parcels of real estate comprising the Community;
- 5.1.8 The approximate location and dimensions of the Common Elements, including porches, balconies, and patios, other than the Limited Common Elements described in Sections 6.2.3 and 6.2.5 below.
- 5.1.9 The location and dimensions of the vertical boundaries of each Unit and that Unit's identifying number;
- 5.1.10 Horizontal Unit boundaries, if any, with reference to all established data, and that Unit's identifying number;
- 5.1.11 Any portion of the Community in which the Declarant has reserved the right to

create additional Units or Common Elements, identified appropriately; and

5.1.12 Any other information as may be included in the discretion of the Declarant.

5.2 Certification of Map. All plats or maps must contain a certification by a registered land surveyor that the plat or map contains all the information required by Section 38-33.3-209 of the Act.

5.3 Supplemental Maps. Supplemental Condominium Maps shall be filed prior to the conveyance of any Units shown thereon and any Supplemental Condominium Map shall contain the same requirements as set forth for the original Condominium Map.

ARTICLE 6 DESCRIPTION OF UNIT

6.1 Legal Description of Unit. Every instrument affecting the title to a Unit shall describe that Unit by its identifying Unit designation followed by the words "The Willow Condominiums, a condominium common interest community in accordance with the recorded Condominium Declaration and Map, San Miguel County, Colorado." Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the Unit, but also the General and Limited Common Elements appurtenant thereto. Each such description shall be construed to include a nonexclusive easement for ingress to and egress from the Unit, and use (consistent with the Condominium Map and this Declaration) of the General Common Elements and the designated Limited Common Elements.

6.2 Unit Boundaries.

6.2.1 The following are designated as boundaries of each Unit, as defined below and as depicted on the Condominium Map:

(a) Upper Horizontal Boundaries. The horizontal plane of the bottom surface of the lower of (i) the unfinished joists, or (ii) any common Building mechanical, plumbing, fire safety and/or electrical improvements, extended to an intersection with the vertical perimeter boundaries.

(b) Lower Horizontal Boundaries. The horizontal plane of the unfinished surface of the concrete, gypcrete or plywood subflooring, extended to an intersection with the vertical perimeter boundaries.

(c) Vertical Perimeter Boundaries. The planes defined by the unfinished interior surface of studs and framing on all demising and exterior walls, extended to an intersection with the horizontal perimeter boundaries.

6.2.2 Where walls, floors, and ceilings are designated as boundaries of a Unit, (i) all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, and finished flooring and any other materials constituting any part of the finished surfaces thereof are part of the Unit, and (ii) all other portions of the walls, floors, or ceilings are part of the Common Elements.

6.2.3 If any chute, flue, duct, wire, conduit, bearing wall, bearing column or other fixture 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 part of the General Common Elements.

6.2.4 Subject to the provision of Section 6.2.3 above, all spaces, interior partitions, and other fixtures and Improvements within the boundaries of a Unit are a part of the Unit.

6.2.5 Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, decks, ski lockers, storage rooms, parking spaces 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.

6.2.6 In the event of any conflict between any provisions of this Declaration and depictions contained on the Condominium Map, with respect to any Unit boundary, the depictions on the Condominium Map shall control.

6.3 Amendment Deemed Included. The reference to the Condominium Map and the Declaration in any instrument shall be deemed to include any recorded supplements or amendments to the Condominium Map or the Declaration, whether or not specific reference is made thereto.

6.4 Conveyance of a Unit. Upon the purchase of any Unit from Declarant, a copy of each instrument of conveyance shall be furnished by Declarant to the Association. Upon any subsequent conveyance of a Unit, a copy of the instrument of conveyance shall be furnished to the Association by the grantee.

ARTICLE 7 TITLE AND OWNERSHIP

7.1 Title. The title to any Unit may be held and owned by one or more person, firm, corporation, partnership, association, trust or other legal entity including Declarant, or any number of combinations thereof. By acceptance by any grantee of his deed or other instrument of conveyance from the Declarant or any prior Owner, each Owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the General Common Elements. Each Owner specifically agrees not to institute any action therefor. Furthermore, each Owner agrees that Section 7.2 may be pleaded as a bar to the maintenance of such an action. A violation of this provision shall entitle the Association to collect, jointly and severally, from the parties violating the same, the actual attorneys' fees, costs and other damages the Association incurs in connection therewith.

7.2 Transfer of General Common Elements. All Owners and the Association, covenant that, except as provided Article 20 hereof, they shall neither by act nor omission, seek to abandon, subdivide, encumber, sell or transfer the General Common Elements without the consent of: (i) the Owners representing an aggregate ownership interest of 75% or more of the General Common Elements; (ii) the First Mortgagees representing an aggregate of 75% of the then-outstanding balances of such Mortgages covering or affecting any or all Units; and (iii) during the Marketing Period, the consent of the Declarant. Any such action without the written consent of said Owners, First Mortgagees and, if applicable, the Declarant, shall be null and void. Notwithstanding the foregoing, nothing contained in this Section 7.2 shall be construed to limit or prohibit a proportionate adjustment in the percentage ownership in the General Common Elements in connection with the combination, division, or partition of any Unit pursuant to the right of combination, division, or partition of a Unit by the Owner or between Owners thereof for the purpose of sale, use, or improvement of such Unit.

7.3 Right to Mortgage a Unit. Each Owner shall have the right to mortgage or otherwise encumber his Unit without restriction. No Owner, however, shall attempt to or shall have the right to mortgage or otherwise encumber the Common Elements or any part thereof except the undivided interest

therein appurtenant to his Unit. Any Mortgage or other encumbrance of any Unit within the Community shall be subordinate to all of the provisions of this Declaration, and in the event of foreclosure the provisions of this Declaration shall be binding upon any Owner whose title is derived through the foreclosure by private power of sale, judicial foreclosure, or otherwise.

ARTICLE 8
USE AND OCCUPANCY

8.1 Use of General Common Elements and Limited Common Elements. Each Owner shall be entitled to exclusive ownership and possession of his Unit. Each Owner may use the General and Limited Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners, and subject to the use and occupancy restrictions set forth in Section 8.2.

8.2 Use and Occupancy. The Units shall be used and occupied in strict accordance with all applicable governmental, zoning, land use and other regulations, and as follows:

8.2.1 Commercial Units. Without limiting any other rights or obligations hereunder, the following uses of Commercial Units are specifically prohibited:

- a. Nightclub or Dance Hall;
- b. Massage Parlor;
- c. Adult Book and/or Video; and
- d. Businesses with nude or topless acts or employees.

8.2.2 Residential Units. Each Residential Unit or any portion thereof, shall be used and occupied in accordance with the general use restrictions set forth in Section 8.3. Excessive noise, unsightly displays, unpleasant odors, and all other nuisances shall be avoided.

Business and commercial activities will be conducted in one or more of the Commercial Units within the Community, and it is thus contemplated that some annoyance and inconvenience is to be expected and must be tolerated. Residential Units are to be used solely for residential and/or short-term rental purposes (with no commercial or office uses allowed) and that excessive noise, unsightly displays, unpleasant odors, and all other nuisances shall be avoided.

8.2.3 Commercial Units - Noise Restriction. Any facility located within a Commercial Unit, including appurtenant Limited Common Elements, may utilize only such live or recorded background music as is customarily used in restaurants and shall conduct its business so as to not unduly inconvenience the Owners of the other Units. The hours of operation of said facilities shall comply with all state and local regulations applicable to such a facility. Any restaurant or bar located within a Commercial Unit shall conduct its operations wholly within the confines of said Unit unless, upon application, the Association grants the restaurant or bar written authorization to use the General Common Elements for commercial purposes. If such permission is granted, the Grantee shall comply with the terms and conditions, including noise restrictions, governing said authorization. Violation of any of the terms of this provision shall subject the Violator to a fine to be assessed by the Association of up to \$500 per infraction in addition to all other sanctions provided by law.

8.2.4 Use of General Common Elements. Each Owner may use the General Common Elements in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other Owners. There shall be no obstruction of General Common Elements, nor

shall anything be kept or stored on any part of the General Common Elements without the prior written consent of the Association, except as specifically provided herein. No restriction, impairment, or interference with any right of ingress or egress provided for in this Declaration shall be permitted at any time without the prior written consent of the Owner thereof and the Board. Nothing shall be altered on, constructed in, or removed from the General Common Elements except upon the prior written consent of the Association.

8.3 General Use Restrictions.

8.3.1 Except as may be permitted by the Rules and Regulations, no animals of any kind shall be raised, bred or kept in the Community, unless approved in writing in advance by the Association on such terms and conditions as the Association shall, if it grants permission, determine. Notwithstanding anything stated above to the contrary, seeing eye dogs will be permitted for those persons holding Certificates of Blindness and Necessity (20/200) in the better eye with correction. Any Owner/tenant/occupant keeping an animal in violation of this provision shall be subject to a fine of up to \$50 per day per violation.

8.3.2 Neither the General Common Elements nor any part or appurtenance of or to any Unit which is visible outside the Unit (*e.g.*, doors) shall be altered in appearance or modified without consent of the Association. All exterior blinds in the windows of the Building shall be generally light in color. No unsightly object or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the Owner of any Unit or any resident or tenant thereof.

8.3.3 Subject to the permitted uses identified in Section 8.2, no nuisances shall be allowed in the Community, nor any use or practice which is the source of annoyance to residents or tenants or which interferes with the peaceful enjoyment or possession and property use of the Community by the Owners. All parts of the Community shall be kept in a clean and sanitary condition and no rubbish, refuse or garbage shall be allowed to accumulate nor any fire hazard to exist. No Unit Owner shall permit any use of his Unit or make any use of the General or Limited Common Elements which will unreasonably increase insurance rates upon the Condominium Property. The Association may adopt Bylaws and Rules and Regulations as may be related to the orderly administration or to abatement and enjoyment of nuisances.

8.3.4 All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community shall be observed.

8.3.5 Rules and regulations may be adopted by the Association concerning and governing both the use of the General and Limited Common Elements and the appearance of the Improvements. Copies of the Rules and Regulations shall be posted or furnished to Unit Owners prior to the time they become effective. The Association shall be responsible for taking all acts and making any Rules and Regulations as will ensure the maintenance of the General Common Elements to high standards of safety, cleanliness and pleasing appearance.

8.3.6 Except for those Improvements caused to be erected or installed by Declarant, for a period of five years after recordation of this Declaration, no exterior additions or alterations to or of the Improvements, nor changes in the fences, plantings, walls and other structures, shall be allowed, except as approved by the Association or otherwise constructed by Declarant in accordance with this Declaration.

8.3.7 Storage of any combustible or dangerous materials shall not be permitted in the ski lockers or storage rooms of the Building.

8.4 On Site Parking. The automobile parking area for the Community is included within the

Limited Common Elements managed by the Association. The Association shall, from time to time, establish the Rules and Regulations governing the operation and use of the automobile parking areas.

8.5 No Restrictions on Sale of a Unit. The right of Owners to sell, transfer or otherwise convey their Unit or Units shall not be subject to any right of first refusal or similar restriction and such Unit or Units may be sold free of any such restrictions.

8.6 No Restrictions on Mortgaging of a Unit. There are no restrictions on the right of Owners to mortgage or otherwise encumber a Unit. There is no requirement for the use of a specific lending institution or particular type of lender.

8.7 No Time-Shares. A Unit may not be conveyed pursuant to time-sharing arrangement described in Sections 38-33-110 to 113, Colorado Revised Statutes without the written consent of Declarant, for so long as Declarant owns an interest in the Community, and, thereafter, without the consent of the Association.

ARTICLE 9 EASEMENTS FOR ENCROACHMENTS

9.1 Encroachments. In the event that any portion of the Common Elements encroaches upon any Unit or Units, or in the event that any portion of a Unit encroaches upon any other Unit or Units or upon any portion of the Common Elements, or in the event any encroachment shall occur in the future as a result of: (1) the build-out of a Unit by an Owner thereof following the completion of the base shell of the Building; (2) settling of the Building or other Improvements; (3) alteration or repair to the Common Elements; or (4) repair or restoration of the Improvements and/or Unit(s) after damage by fire or other casualty, or condemnation or eminent domain proceedings; a valid easement shall exist for the encroachment and for the maintenance of the same so long as the Building stands or encroachment exists.

9.2 Destruction. In the event that any one or more of the Units or the Building or other Improvements comprising part of the Common Elements are partially or totally destroyed and are subsequently rebuilt or reconstructed in substantially the same location, and as a result of such rebuilding any portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment shall then exist.

9.3 Marketability. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or on the Units for purposes of marketability of title or other purposes.

9.4 Liability. The easement does not relieve a Unit Owner of liability in case of willful misconduct nor relieve the Declarant or any other person of liability for failure to adhere to the Condominium Map.

9.5 Variations. In interpreting any and all provisions of the Declaration and subsequent deeds to and/or Mortgages relating to Units, the actual location of a Unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered notwithstanding any minor deviations, either horizontally, vertically or laterally from the location of such Unit indicated on the Condominium Map.

ARTICLE 10
RESERVATION FOR ACCESS - MAINTENANCE, REPAIR AND EMERGENCIES

10.1 Association Right of Access. The Association, its officers, independent contractors, agents and employees, shall have the irrevocable right to have access to each Unit and all General Common and Limited Common Elements from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the General Common and Limited Common Elements therein or accessible therefrom, or at any hour for making emergency repairs, maintenance or inspection therein necessary to prevent damage to the General Common and Limited Common Elements or to another Unit.

10.2 Damage. Damage to the interior or any part of a Unit, including damage to Owner installed or constructed Improvements within a Unit, resulting from the maintenance, repair, emergency repair or replacement of any of the General Common and Limited Common Elements or as a result of emergency repairs within another Unit at the direction of the Association, shall be the Common Expenses of all of the Owners; provided, however, that if such damage is caused by the negligence of the Owner of the Unit, his agents, employees, invitees or tenants, then such Owner shall be assessed by the Association and liable for all of such damage and the cost thereof shall be the Owner's obligation and shall be immediately paid upon demand therefor.

10.3 Association's Responsibility. Maintenance, repair or replacement of any drainage structure or facilities, or other public improvements required by the local governmental entity as a condition of development of the Community or any part thereof shall be the responsibility of the Association, unless such improvements have been dedicated to and accepted by the local governmental entity for the purpose of maintenance, repair, or replacement or unless such maintenance, repair, or replacement has been authorized by law to be performed by a special district or other municipal or quasi-municipal entity.

10.4 Restoration. All damaged Improvements shall be restored substantially, to the extent reasonably practical, to the same condition in which they existed prior to such damage.

10.5 Common Expenses. All maintenance, repair and replacement of the General Common Elements, whether located inside or outside of any Unit (unless caused by the negligence, misuse or deliberate act of an Owner), shall be the Common Expenses of all of the Owners.

10.6 Emergency Services Easement. An easement for ingress and egress is hereby granted to all sheriff, fire protection, ambulance, and other similar emergency services or persons to enter upon the Community in performance of their duties.

ARTICLE 11
ASSESSMENTS AND TAXATION

11.1 Separate Assessments and Taxation - Notice to Assessor. The Declarant shall give written notice to the Assessor of San Miguel County, Colorado, of the creation of condominium ownership of this Community, as provided by the Act, so that each Unit, together with its undivided interest in the General Common Elements and its interest in the Limited Common Elements appurtenant thereto, shall be deemed a separate parcel and subject to separate assessment and taxation.

11.2 Assessments and Taxation. Each Unit shall be separately assessed for all taxes and assessments of the State of Colorado, San Miguel County or any other political subdivision or district having authority to tax. For the purpose of such assessment, the valuation of the General Common Elements shall

be apportioned among the Units in proportion to the percentage undivided interest in the General Common Elements appurtenant to such Units.

ARTICLE 12
CONDOMINIUM OWNERS ASSOCIATION

12.1 The Association. The administration of the Community shall be governed by this Declaration, and the Articles of Incorporation and Bylaws. The Declaration shall control over the Articles of Incorporation and Bylaws, and the Articles of Incorporation shall control over the Bylaws.

12.2 Membership. Each Owner of a Unit shall automatically become a Member of the Association and shall remain a Member of the Association for the period of the Owner's Unit ownership. Each Owner shall be entitled to one membership for each Unit owned. Each membership shall be appurtenant to the Unit and shall be transferred automatically by conveyance of the Unit. Any corporation, partnership, association, trust or other legal entity acquiring an ownership interest in a Unit shall automatically become a Member of the Association. No person or entity other than an Owner may be a Member of the Association, but the rights of membership may be assigned to a mortgagee as and for the security for a loan secured by a lien on a Unit.

12.3 Voting Rights. Members shall be entitled to one vote for every Unit such Member owns on all matters, with each vote weighed according to the percentage of ownership of the General Common Elements attributable to such Unit, as set forth in Exhibit "B" attached hereto.

12.3.1 If a Unit is owned by more than one Person, those Persons shall agree among themselves how the vote for that Unit's membership is to be cast. Individual co-Members may not cast fractional votes. A vote by a co-Member for the entire Unit's membership interest shall be deemed to be pursuant to a valid proxy (See Section 12.5), unless another co-Member of the same Unit objects at the time the vote is cast, in which case such membership's vote shall not be counted. In no event shall more than one vote be cast with respect to any Unit.

12.3.2 Except as may be otherwise provided in this Declaration, all matters that come before the vote of the Association, whether said matters are required to be voted on by the Members of the Association or are submitted to the vote of the Members of the Association, shall be determined by the majority vote of the Members.

12.3.3 Notwithstanding any provisions set forth in this Declaration, the Articles of Incorporation or the Bylaws for the Association, the Association shall not be empowered nor entitled to modify, amend, terminate, or extend this Declaration or any provision thereof without the consent of 75% of the votes entitled to be cast by the Members and, during the Marketing Period, the consent of the Declarant.

12.3.4 Notwithstanding any provisions in this Declaration, the Articles of Incorporation or Bylaws for the Association, the Association shall not be entitled nor empowered to do the following during the Marketing Period without the consent and approval of the Declarant, unless the Declarant has voluntarily relinquished control of the Association:

- (a) make design review decisions;
- (b) make amendments, modifications, terminations, or extensions to the Community Documents;
- (c) prepare annual budgets;

- (d) do any of the acts listed in Section 13.2 (Association Powers) hereof;
- (e) transfer the General Common Elements pursuant to Section 7.2 or Section 20.3 hereof; and
- (f) adopt a plan for reconstruction or sale pursuant to Article 20 hereof.

12.4 Transfer. Except as otherwise expressly stated herein, any of the rights, interests and obligations of the Association set forth herein or reserved herein may not be transferred to or assigned to any other person or entity. No such transfer or assignment shall relieve the Association of any of the obligations set forth herein. Any such transfer or assignment shall not revoke or change any of the rights or obligations of any Owners as set forth herein.

12.5 Vote by Proxy. Votes allocated to a Unit may be cast pursuant to a proxy duly executed by a Unit Owner. If a Unit is owned by more than one person, each Owner of the Unit may vote or register protest to the casting of votes by the other Owners of the Unit through a duly executed proxy. Upon a Member's designation of a proxy, the secretary of the Association shall maintain the list of the Persons entitled to vote on behalf of each Member and, until the Association is notified to the contrary, any action taken by a person purporting to act on behalf of a Member shall be binding upon the Member. An Owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates eleven months after its date, unless it provides otherwise.

ARTICLE 13 PURPOSES AND POWERS OF ASSOCIATION

13.1 Nonprofit Purpose. The Association shall not operate for pecuniary gain or profit, shall not issue capital stock, and no part of the net earnings of the Association shall inure to the benefit of any Member or individual (except that reasonable compensation may be paid for services rendered by an Owner or an affiliate thereof).

13.2 Association Powers. The Association shall be granted all powers necessary to govern, manage, maintain, repair, administer, and regulate the Community and to perform all of the duties required of it, as provided herein or as otherwise provided for by the Condominium Act.

13.2.1 Notwithstanding the above, the Association shall not be empowered nor entitled to do any of the following without the consent of (i) the First Mortgagees representing an aggregate of 75% of the membership interests subject to security interests; and (ii) during the Marketing Period, the consent of the Declarant:

- (a) by act or omission, seek to abandon or terminate the condominium regime;
- (b) except as otherwise provided herein, partition or subdivide any Unit;
- (c) by act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements;
- (d) use hazard insurance proceeds for a loss to the Improvements for other than the repair, replacement, or reconstruction of such Improvements; or
- (e) change the pro rata interest or obligation of any Unit, and of the Owners

thereof, for the purposes of: (i) levying Assessments or charges hereunder or for the purpose of allocating a distribution of hazard insurance proceeds or condemnation awards hereunder; or (ii) determining the pro rata share of ownership of each Unit in the Common Elements.

13.2.2 In furtherance of the Association purposes, the Association (by action of its directors, unless otherwise noted in the Articles of Incorporation or in the Declaration) shall have full power, without further authorization, to:

- (a) Adopt and amend Bylaws and Rules and Regulations;
- (b) Adopt and amend budgets for revenues, expenditures, and reserves and collect Assessments for Common Expenses from Owners;
- (c) Hire and terminate managing agents and other employees, agents, and independent contractors;
- (d) 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 Community;
- (e) Make contracts and incur liabilities;
- (f) Regulate the use, maintenance, repair, replacement, and modification of the Common Elements;
- (g) Cause additional Improvements to be made as a part of the Common Elements;
- (h) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, subject to the provisions of Sections 7.2 and 20.3 and Article 25.
- (i) Grant easements, leases, licenses, and concessions through or over the Common Elements;
- (j) Impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Elements other than the Limited Common Elements described in Section 38-33.3-315 of the Act;
- (k) 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 power of the Association, regardless of whether or not suit was initiated, and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws, and Rules and Regulations of the Association;
- (l) Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid Assessments;
- (m) Provide for the indemnification of its officers and Board and maintain director's and officer's liability insurance;
- (n) Assign its right to future income, including the right to receive Assessments, but only to the extent this Declaration expressly so provides;

- (o) Exercise any other powers conferred by the Declaration or Bylaws;
- (p) Exercise all other powers that may be exercised in the State of Colorado by legal entities of the same type as the Association; and
- (q) Exercise any other powers necessary and proper for the governance and operation of the Association.

13.3 Association as Attorney-in-Fact. The title to any Unit is hereby declared and expressly made subject to the terms and conditions hereto, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or any prior Owner shall constitute the appointment of the Association as the Owner's attorney-in-fact for the purposes expressly set forth in this Declaration. The Association, as attorney-in-fact, shall have full and complete authorization, right and power to (i) make, execute and deliver any contract, deed or other document with respect to the interest of the Owner of a Unit for the purposes expressly set forth in this Declaration; and (ii) unless expressly limited by the Condominium Laws, execute, deliver and file of record with the office of the Clerk and Recorder of San Miguel County, Colorado, such instruments, deeds, Condominium Maps and Declaration amendments and supplements as are necessary or desirable for the purposes expressly set forth in this Declaration. This Declaration does hereby specifically make the irrevocable appointment of the Association as attorney-in-fact for all Owners to deal with the Condominium Property upon its destruction, obsolescence, repair or reconstruction or condemnation, and title to each Unit is declared and expressly made subject to the terms and conditions hereof and acceptance by the grantee of a deed from the Declarant or from any Owner shall irrevocably constitute and appoint the Association their true and lawful attorney in their name, place and stead for the purpose of dealing with the Condominium Property upon its destruction, obsolescence, repair or reconstruction. In the event the Condominium Property is sold by the Association, as attorney-in-fact, pursuant to Articles 20-21, the Association shall record a notice in the Office of the Clerk and Recorder of San Miguel County, Colorado, setting forth the circumstances of such sale, and this Declaration shall wholly terminate and expire upon the recording of such notice.

13.4 Owner Compliance. Each Owner shall comply strictly with the provisions of this Declaration, any supplement or amendment hereto, the Articles of Incorporation, Bylaws, and Rules and Regulations, and all decisions and resolutions of the Association adopted in accordance with this Declaration and the Articles of Incorporation and Bylaws. Failure to comply with any of the same shall be grounds for an action to recover any amounts due, pursuant to Article 18 below, for damages or injunctive relief or both, together with reasonable attorneys' fees and costs, incurred in connection therewith, brought by the Association on behalf of the Owners, or, in a proper case, by any aggrieved Owner.

13.5 Maintenance of Common Elements. The Association shall have the duty of maintaining and repairing all of the General Common Elements within the Community. The cost of all such maintenance shall be a Common Expenses of all of the Owners. The Association shall not be required to obtain the prior approval of the Owners to cause such maintenance or repairs to be accomplished.

13.6 Other Duties of the Association. In addition to all other rights, duties, privileges and liabilities of the Association, as provided by this Declaration and its Articles of Incorporation and amendments, the Association shall provide to the Owners the following duties and services, all of which shall be paid as a part of the Assessments:

13.6.1 Maintenance, repair and restoration of the Common Elements, except only as otherwise provided.

13.6.2 Administration and management of the Common Elements.

13.6.3 Heating, lighting, water and other utility services for all common areas.

13.6.4 Obtaining and maintaining of all required insurance as hereafter provided.

13.6.5 The enforcement of all of the provisions of this Declaration and the Association's Rules and Regulations and the collection of all obligations and Assessments owed to the Association by the Owners.

13.6.6 Acting as attorney-in-fact for the Owners in accordance with this Declaration.

13.6.7 Performing all other acts required by the Community Documents and/or applicable Federal, State, County, or municipal laws.

13.6.8 In addition to the foregoing, the Association shall have the right to hire one or more persons including a management agent, to perform such services. No contract or agreement for the employment of a management agent or professional manager for the Community shall be for a term in excess of one year and any such agreement shall provide that the same may be terminated with or without cause and without payment of any termination fee on 90 days prior written notice. Any such contract or agreement may be renewed for additional one-year periods without violation of this subsection.

ARTICLE 14 MAINTENANCE RESPONSIBILITY FOR UNIT

14.1 Owner's Responsibility. Each Owner shall have the obligation to maintain and keep in good repair all Improvements installed or constructed by the Owner within his Unit, including, but not limited to, the interior surfaces of walls, ceilings and floors (including any Owner interior finish, dry wall or wallboard surfaces, carpeting, tile, wallpaper, paint or other covering), internally installed utility distribution services such as water, light, gas, power, sewer, telephone and air conditioning, and all doors, windows, and window panes, lamps and accessories installed by an Owner, as well as all fixtures and appliances located within such Owner's Unit.

14.1.1 An Owner shall not be responsible for repair occasioned by damage, unless such damage is due to the act or negligence of Owner, or the Owner's guests, invitees, or tenants.

14.1.2 An Owner shall reimburse the Association for any expenditure incurred for replacing and repairing of any Common Element and related facility, damaged through fault of Owner, or the Owner's guests, invitees, or tenants, and the Association shall be entitled to assess such Owner for such amounts which shall be payable, collectible and enforceable in the same manner as Assessments pursuant to Articles 16 and 18 below.

14.1.3 No Owner shall alter any Common Element without the prior written consent of the Association; provided, however, that an Owner of a Limited Common Element may modify the same provided all Owners with an interest therein agree and such modification does not interfere with the rights of other Owners.

14.2 Maintenance Responsibility of the Association. The Association, through its Board, shall maintain, replace, improve and keep in good repair, as a Common Expense, all Common Elements.

14.3 Reservation of Access. The Association, by and through its Board, shall have the right of access to each Unit and its appurtenant Limited Common Elements from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of Common Elements, or at any time deemed necessary by the Association for the making of emergency repairs to prevent damage to the Condominium Property.

14.4 Owner Remodeling. An Owner shall have the right to redecorate, remodel or reconstruct the interior of such Owner's Unit, provided that no reconstruction or remodeling shall be made without the prior written consent of the Board if it would materially affect the structural integrity, Common Elements, or exterior appearance of the Building. Such right to repair, alter and remodel shall carry the obligation to replace any finished materials removed with similar or other types or kinds of finishing materials. In these instances where the prior written consent of the Board is required, the Owner, upon completion of the remodeling shall deposit with the Association a complete set of as-built plans describing the Owner remodeling.

14.5 Utility Lines. The Owner shall not be deemed to own any utilities or communication systems running through his Unit which serve one or more other Units except as tenants in common with the other Owners. No utilities shall be altered, changed, relocated or distributed without the prior written consent of the Association.

14.6 No Impairment of Structural Soundness. An Owner shall neither perform nor permit any act or work that will impair the structural soundness or integrity of the Building or impair an easement or utility.

ARTICLE 15 ADMINISTRATION AND MANAGEMENT

15.1 Board of Directors. The Association, by and through the Board elected in accordance with the Articles of Incorporation and the Bylaws, shall have the duties of the general management, operation, and maintenance of the Community and the enforcement of the provisions of this Declaration and of the Articles of Incorporation and the Bylaws and Rules and Regulations adopted thereunder.

15.1.1 Officers and members of the Board shall exercise such duties of care as stated by the Condominium Laws and shall be liable thereunder for breach of such duty.

15.1.2 The Board may not act on behalf of the Association to amend the Declaration, to terminate the Community, or to elect members of the Board or determine the qualifications, powers and duties, or terms of office of Board members, but the Board may fill vacancies in its membership for the unexpired portion of any term.

15.1.3 The Board may delegate any of its duties, powers and functions to any person or firm, which will act as the managing agent at an agreed compensation.

15.2 Managing Agent. The managing agent, if any, shall perform the management, operation and maintenance functions delegated to it by the Board.

15.3 Budget. Within 30 days after adoption of any proposed 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 nor more than 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 periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

15.4 Marketing Period. During the Marketing Period, the Declarant, or persons designated by it, may appoint and remove the officers and members of the Board. The Marketing Period shall terminate no later than the first to occur of either: (i) 60 days after conveyance of 75% of the Units that may be conveyed to Owners other than the Declarant; (ii) two years after the last conveyance of a Unit by the Declarant in the ordinary course of business; or (iii) two years after any right to add new Units was last exercised.

15.4.1 The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of the Marketing Period, but, in that event, the Declarant may require, for the duration of the Marketing Period, that specified actions of the Association or Board be approved by the Declarant before they become effective.

15.5 Election of the Board during Marketing Period. Not later than 60 days after conveyance of 25% of the Units that may be conveyed to Owners other than the Declarant, at least one member and not less than 25% of the members of the Board must be elected by Owners other than the Declarant. Not later than 60 days after the conveyance of 50% of the Units that may be created to Owners other than the Declarant, not less than thirty-three and 33⅓% of the members of the Board must be elected by Owners other than the Declarant.

15.6 Election of the Board after Marketing Period. Except as otherwise provided herein or by law, no later than the termination of the Marketing Period, the Owners shall elect a Board of at least three members, at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Board shall elect the officers of the Association. The Board members and officers shall take office upon termination of the Marketing Period.

15.7 Removal of Board Member. The Owners, by a two-thirds vote of all membership interests represented or present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any member of the Board with or without cause, other than a member appointed by Declarant.

15.8 Delivery of Community Documents. Declarant shall timely perform such acts, including delivering documents, reports, and the like, as shall be required by the Condominium Laws in effect from time-to-time.

ARTICLE 16 ASSESSMENT FOR COMMON EXPENSES

16.1 Obligation. All Owners shall be obligated to pay the Assessments imposed by the Board to meet the Common Expenses of maintenance, operation and management of the Community. Until the Association makes an Assessment, but no later than the end of the Marketing Period, the Declarant shall pay all Common Expenses. After any Assessment has been made by the Association, Assessments shall be made no less frequently than annually and shall be based on a budget adopted no less frequently than annually by the Association.

16.2 Apportionment. Except as otherwise provided in this Declaration, the percentage of Common Expenses to be paid by a Owner shall be equal to such Owner's allocated interest in and to the General Common Elements as set forth in Exhibit "B."

16.3 Excess Assessments. In the year in which there is an excess of Assessments received over amounts actually used for the purposes described herein, and in the Bylaws, such excess may be applied against and reduce the subsequent year's Assessments or be refunded to the Unit Owners, as the Board determines.

16.4 Interest. Any past-due Assessment or installment thereof shall bear interest at the rate established by the Board not exceeding 21% or the maximum interest rate allowed by Colorado law, whichever is less.

16.5 No Waiver or Abandonment. No Owner may be exempt from liability for payment of the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit against which the Assessments are made.

ARTICLE 17 APPORTIONMENT OF CERTAIN EXPENSES

17.1 Limited Common Elements. Each Owner shall be responsible for the day-to-day cleaning and upkeep of the Limited Common Elements reserved for the use of such Owner and any other Owners. Any and all cost associated with said day-to-day care, cleaning and upkeep of said Limited Common Elements shall be paid and discharged by the Owner or Owners entitled to the exclusive use of said Limited Common Elements. The expense of maintaining, repairing, replacing or reconstructing a Limited Common Element shall be assessed equally against the Unit or Units to which such Limited Common Element is assigned.

17.2 Benefit of Class of Owners. The costs of any Common Expenses to the Community (including, without limitation, gas, electric, trash, water and sewer and other utility expenses), unless and to the extent that these are separately metered or provided, shall be apportioned to all Units, in accordance with the Units' percentage ownership interests in and to the General Common Elements, as set forth on Exhibit "B." The foregoing notwithstanding, the costs of any Common Expenses, or portions thereof, which the Board reasonably determines to benefit only one or more Units, shall be borne by the Unit or Units involved, in accordance with the allocations determined by the Board, in its sole discretion. In this connection, it is acknowledged that the utility costs and/or other Common Expenses for the Commercial Units may exceed those of the Residential Units.

17.3 Misconduct. If any Common Expenses are caused by the misconduct of any Owner, the Board may assess that expense exclusively against such Owner's Unit.

17.4 Special Allocation of Expenses of Repair and Maintenance. The Association shall have the right to allocate a disproportionate share of the expenses of repair and maintenance of the Common Elements to any Unit, which has been occupied or used on a rental basis for the majority of the dates in any Assessment period, to the extent that the Board reasonably determines that such occupancy and/or usage has resulted in excessive wear and tear.

ARTICLE 18
COLLECTION OF COMMON EXPENSES

18.1 Assessment Lien. Declarant, for each Unit, shall be deemed to covenant and agree, and each Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association such Assessments as shall be imposed by the Association, in accordance with this Declaration and/or any other applicable Community Documents. In accordance with Section 22.2 below, the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments against a Unit, without prejudice to the grantee's right to recover from the grantor any amounts paid by the grantee therefor. No Owner may become exempt from liability for payment of the Assessments by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the Assessments are made. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted by any reason including, without limitation, any claim that the Association or the Board is not properly exercising its duties and powers under this Declaration. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them, though the rights to lien the Unit shall continue, regardless of ownership.

The Assessments, including fees, charges, late charges, attorney fees, fines and interest charged by the Association, shall be a charge on each Unit and shall be a continuing lien upon the Unit against which each such Assessment or charge is made. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment become due.

A lien under this section is prior to all other liens and encumbrances on a Unit except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first lien Security Interest on the Unit (except as allowed by the Act with regard to the limited lien priority allowed to the Association); and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. A lien under this section shall also be superior to the first Mortgage on the Unit recorded before the date on which the Assessment sought to be enforced became delinquent, to the maximum extent allowed by the Act. This section does not prohibit either (i) an action to recover sums for which this section creates a lien or (ii) the Association from taking a deed in lieu of foreclosure. Sale or transfer of any Unit shall not affect the Association's lien, except that sale or transfer of any Unit pursuant to foreclosure of any first Mortgage, or any proceeding in lieu thereof (including deed in lieu of foreclosure) or cancellation or forfeiture shall only extinguish the Association's lien, as provided in the Act. No such sale, transfer, foreclosure, or any proceeding in lieu thereof (including deed in lieu of foreclosure), nor cancellation or forfeiture, shall relieve any Unit from its continuing liability for any Assessments thereafter becoming due, nor from the lien thereof.

18.2 Purpose of Assessments. The Assessments levied by the Association through its Board shall be used for the purposes of promoting the health, safety, and welfare of the residents in the Community for any other purpose reasonably related to the operation, maintenance and control of the Community, and for any other purpose allowable under the Act.

18.3 Effect of Nonpayment of Assessments. Any Assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within fifteen days after the due date thereof shall bear interest at the rate as determined by the Board and additionally, the Association may assess a late charge thereon. Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Unit. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments,

charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefor.

18.4 Working Fund. The Association or Declarant may require the first Owner of each Unit (other than Declarant) to make a non-refundable payment to the Association in an amount equal to one-fourth of the annual Assessment against that Unit in effect at the closing thereof, which sum shall be held, without interest, by the Association as a working fund. Said working fund shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Unit, as aforesaid, and shall be maintained for the use and benefit of the Association. Such payment shall not relieve an Owner from making regular payments of Assessments as the same become due.

ARTICLE 19 INSURANCE

19.1 Insurance Required. Commencing not later than the time of the first conveyance of a Unit to a person other than a Declarant, the Association shall maintain, to the extent reasonably available:

19.1.1 Property insurance on the Common Elements for broad form covered causes of loss; except that the total amount of insurance must be not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies; and

19.1.2 Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements, insuring the Board, the Association, the Managing Agent, and their respective employees, agents, and all persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as an Owner and Board member. The Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties.

19.1.3 The Association may carry any other insurance it considers appropriate, including insurance on Units it is not obligated to insure, to protect the Association or the Owners.

19.2 Scope of Insurance. In the case of a Building that contains Units having horizontal boundaries described in the Declaration, the insurance maintained under Subsection 19.1.1 of this section must include the Units but not the finished interior surfaces of the walls, floors, and ceilings of the Units. The insurance need not include Improvements and betterments installed by Owners, but if they are covered, any increased charge shall be assessed by the Association to those Owners.

19.3 Cancellation of Insurance. If the insurance described in Sections 19.1 and 19.2 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.

19.4 Specific Provisions. Insurance policies carried pursuant to Sections 19.1 and 19.2 must provide that:

19.4.1 Each Owner is an insured person under the policy with respect to liability arising out of such undivided interest in the Common Elements or membership in the Association;

19.4.2 The insurer waives its right to subrogation under the policy against any Owner or member of his household;

19.4.3 No act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

19.4.4 If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

19.5 Adjustment of Claims. Any loss covered by the property insurance policy described in Subsection 19.1.1 and Section 19.2 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, Owners and lienholders as their interests may appear. Subject to the provisions of Section 19.8, the proceeds must be disbursed first for the repair or restoration of the damage property, and the Association, Owners, and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Community is terminated.

19.5.1 The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. In the event that more than one Unit is damaged by a loss, the Association in its reasonable discretion may assess each Owner a pro-rata share of any deductible paid by the Association.

19.6 Owner's Responsibility for Insurance. An insurance policy issued to the Association does not obviate the need for Owners to obtain insurance for their own benefit.

19.7 Certificate of Insurance. An insurer that has issued an insurance policy for the insurance described in Sections 19.1 and 19.2 of this section shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or holder of a security interest. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or non-renewable has been mailed to the Association, and each Owner and holder of a security interest to whom a certificate or memorandum of insurance has been issued at their respective last-known addresses.

19.8 Damage Repair. Any portion of the Community for which insurance is required under this section which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

19.8.1 The Community is terminated pursuant to the provisions of this Declaration and the Act;

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

19.8.3 75% of the Owners agree that it will not be rebuilt and vote not to rebuild; or

19.8.4 Prior to the conveyance of any Unit to a person other than the Declarant, the holder of a deed of trust or Mortgage on the damaged portion of the Community rightfully demands all or a substantial part of the insurance proceeds.

19.9 Common Expenses in Excess of Insurance. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Community is 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 Community, and, except to the extent that other persons will be distributees, the insurance proceeds attributable to Units and Limited Common Elements that are not rebuilt must be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated, or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all the Owners and lienholders in proportion to such Units' allocated interests in the General Common Elements.

19.10 Fidelity Insurance. If any Owner or employee of the Association controls or disburses funds of the Community, the Association must obtain and maintain, to the extent reasonably available, fidelity insurance. Coverage shall not be less in aggregate than two months' current Assessments plus reserves, as calculated from the current budget of the Association.

19.10.1 Any person employed as an independent contractor by the Association for the purposes of managing the Community must obtain and maintain fidelity insurance in an amount not less than the amount specified in this Section 19.10, unless the Association names such person as an insured employee in a contract of fidelity insurance, pursuant to this Section 19.10.

19.10.2 The Association may carry fidelity insurance in amounts greater than required in this Section 19.10 and may require any independent contractor employed for the purposes of managing the Community to carry more fidelity insurance coverage than required in this Section 19.10.

19.11 Insurance Premiums are Common Expenses. Premiums for insurance that the Association acquires and other expenses connected with acquiring such insurance are Common Expenses.

ARTICLE 20 OBSOLESCENCE

20.1 Renewal and Reconstruction. The Owners representing an aggregate percentage ownership interest of 75% or more (according to the percentage interest in General Common Elements), and holders of duly recorded first Mortgages representing an aggregate of 75% of the outstanding aggregate principal balance of said Mortgages, may agree that the Community is obsolete and adopt a plan for the renewal and reconstruction.

20.1.1 If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the Owners as Common Expenses; provided, however, that an Owner, who is not a party to such a plan for renewal or reconstruction, may give written notice to the Association within fifteen days after the date of adoption of such plan that his Unit shall be purchased by the Association for the fair market value thereof. The Association shall then have 30 days within which to cancel such plan. If such plan is not canceled, the Unit of the requesting Owner shall be purchased according to the following procedures.

(a) If such Owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within 30 days after such agreement.

(b) If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "Commencement Date" from which all periods of time mentioned hereafter shall be measured. Within ten days following the Commencement Date, each party shall nominate an appraiser in writing (and give notice of such nomination to the other party). If either party fails to make such a nomination, the appraiser nominated shall, within five days after default by the other party, appoint and associate with him another appraiser. If the two designated or selected appraisers are unable to agree on the fair market value of the Unit, they shall appoint another appraiser to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, each appraiser previously appointed shall nominate two appraisers, and from the names of the four appraisers so nominated one shall be drawn by lot by any judge of any court of record in San Miguel County, Colorado, and the name so drawn shall be such umpire. The nominations from whom the umpire is to be drawn by lot shall be submitted within ten days of the failure of the two appraisers to agree, which, in any events shall not be later than 20 days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value, or in the case of their disagreement, then such decision of the umpire, shall be final and binding and a judgment based upon the decision rendered may be entered in any court having jurisdiction thereof. The expenses and fees of such appraisers shall be borne equally by the Association and the Owner.

(c) The sale shall be consummated within fifteen days thereafter, and the Association, as attorney-in-fact, shall disburse such proceeds to the Association, Owner(s), and lienholders, as their interests may appear.

20.2 Sale of Property. If the Owners representing an aggregate percentage ownership interest of 75% or more (according to the percentage interest in General Common Elements) may agree that the Community is obsolete and that the same should be sold, the Association shall forthwith record a notice executed by the Association's president and secretary or assistant secretary setting forth such fact, and upon the recording of such notice the Community shall be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration. The sales proceeds shall be collected and apportioned between the Owners on the basis of each Owner's appurtenant interest in and to the Common Elements as specified in Exhibit "B," and such apportioned proceeds shall be paid into separate accounts, each account representing one Unit. Each such account shall be in the name of the Association, and shall be further identified by the Unit designation and the name of the Owner. The Association, as attorney-in-fact, shall use and disburse the total amount of each separate account, without contribution from one account to another, to the Association, Owner(s) and lienholders, as their interests may appear.

20.3 Conveyance of General Common Elements. The Owners representing an aggregate ownership interest of 75% or more (according to the percentage interest in General Common Elements) may agree to convey or encumber all or part of the General Common Elements. Such agreement to convey or encumber all or part of the General Common Elements must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of Owners and, as appropriate, recordation of amendments to the Declaration and/or Condominium Map. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in the Office of the Clerk and Recorder of the County of San Miguel and is effective only upon recordation.

20.3.1 Unless in compliance with this section, any purported conveyance, encumbrance, or other voluntary transfer of Common Elements is void.

20.3.2 A conveyance or encumbrance of General Common Elements pursuant to this section shall not deprive any Unit of its rights of ingress and egress and support of the Unit.

20.3.3 A conveyance or encumbrance of General Common Elements pursuant to this section does not affect the priority or validity of preexisting encumbrances.

ARTICLE 21
CONDEMNATION

21.1 Total Condemnation. If a Unit is acquired by eminent domain or part of a Unit is acquired by eminent domain leaving the Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the condemnation award must include compensation to the Owner for that Unit and its allocated interests whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides, that Unit's allocated interests are automatically reallocated to the remaining Units in proportion to the respective allocated interests of those Units before the taking. Any remnant of a Unit remaining after part of a Unit is taken under this Section 21.1 is thereafter a General Common Element.

21.2 Partial Condemnation. Except as provided in Section 21.1 above, if part of a Unit is acquired by eminent domain, the award must compensate the Owner for the reduction in value of the Unit and its interest in the Common Elements whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides:

21.2.1 That Unit's allocated interests are reduced in proportion to the reduction in the size of the Unit; and

21.2.2 The portion of allocated interests divested from the partially acquired Unit is automatically reallocated to that Unit and to the remaining Units in proportion to the respective interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced allocated interests.

21.3 Condemnation of Common Elements. If part of the General Common Elements is acquired by eminent domain, that portion of any award attributable to the Common Elements taken must be paid to the Association. Any portion of the award attributable to the acquisition of a Limited Common Element must be equally divided among the Owners of the Units to which that Limited Common Element was allocated at the time of acquisition. For the purposes of acquisition of a part of the General Common Elements, service of process on the Association shall constitute sufficient notice to all Owners, and service of process on each individual Owner shall not be necessary.

21.4 Recordation of Decree. The court decree shall be recorded in the Office of the Clerk and Recorder of the County of San Miguel.

21.5 Confirmation of Reallocations. The reallocations of allocated interests pursuant to this section shall be confirmed by an amendment to the Declaration prepared, executed, and recorded by the Association.

ARTICLE 22
STATEMENT OF ACCOUNT

22.1 Statement of Assessments. The Association shall furnish to a Owner or such Owner's designee or to a holder of a security interest or its designee upon written request by the Owner, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Association's registered agent, a statement setting forth the amount of unpaid Assessments currently levied against such Owner's Unit. The statement shall be furnished within ten business days after receipt of the request by the Association and is binding on the Association, the Board, and every Owner. If no statement is furnished to the Owner or holder of a security interest or their designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a priority lien upon the Unit for unpaid Assessments which were due as of the date of the request.

22.2 Grantee and Grantor Both Responsible. The grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments (including fees, charges, late charges, attorney fees, fines and interest) against the latter for the Assessments provided herein up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore, subject only to the limitations set forth in Section 22.1 above. The term "grantee" as used in this section shall not apply to the holder of any first Mortgage upon a Unit, or to any person or entity acquiring title to a Unit, by either sheriff's or public trustee's deed through foreclosure, or who acquires title by a deed given in lieu of foreclosure of a Mortgage, deed of trust, or other security instrument encumbering such Unit.

ARTICLE 23
TERMINATION OF MECHANIC'S LIEN RIGHTS AND INDEMNIFICATION

23.1 Mechanic's Liens. Subsequent to the completion of the Improvements described on the Condominium Map, no labor performed or materials furnished and incorporated into a Unit with the consent or at the request of an Owner or his agent or his contractor or subcontractor shall be the basis for filing of a lien against the Unit of another Owner not expressly consenting to or requesting the same, or against the Common Elements, except as to the undivided interest of the Owner for whom such labor or materials shall have been furnished.

23.2 Indemnification. Each Owner shall indemnify and hold harmless each of the other Owners from and against any and all liability, loss or damage, including reasonable attorney's fees, that the other Owners incur as a result of the claims of any lien against the indemnifying Owner's Unit or any part thereof for labor performed, or for materials furnished in work on such Owner's Unit.

ARTICLE 24
MORTGAGING A UNIT - PRIORITY

24.1 Encumbrances. Any Owner shall have the right from time-to-time to Mortgage or encumber his interest in a Unit by a Mortgage or deed of trust. A first Mortgage shall be one which has first and paramount priority under applicable law. The Owner of a condominium may create junior Mortgages on the following conditions.

24.1.1 That any such junior Mortgage shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, liens for Common Expenses and other obligations created by this Declaration, the Articles of Incorporation and Bylaws.

24.1.2 That the holder of any junior Mortgage shall release, for the purpose of restoration of any Improvements upon the Community, all of this right, title and interest in and to the proceeds under insurance policies upon said Community wherein the Association is named insured. Such release shall be furnished upon written request by the Association.

ARTICLE 25
PROPERTY FOR COMMON USE

The Association may acquire real and personal property for the use and benefit of all of the Owners and may dispose of the same by sale or otherwise, and any such property shall be deemed General Common Elements.

ARTICLE 26
SPECIAL DECLARANT RIGHTS, DEVELOPMENT RIGHTS
AND ADDITIONAL RESERVED RIGHTS

Declarant hereby reserves the following "Special Declarant Rights," "Development Rights" and "Additional Reserved Rights" for up to 10 years following the recordation of this Declaration.

26.1 SPECIAL DECLARANT RIGHTS.

26.1.1 Completion of Improvements. The right to complete Improvements indicated on plats and maps filed with the Declaration.

26.1.2 Exercise of Reserved Rights. The right to exercise (i) any Special Declarant Rights reserved in this Article 26.1, (ii) any Additional Reserved Rights pursuant to Article 26.2, (iii) any Development Rights reserved in Article 26.3, or (iv) any other rights reserved or existing under the provisions of this Declaration or the Act.

26.1.3 Sales Management and Marketing. The right to maintain sales offices, management offices, and models in Units and the right to maintain signs advertising the Community. The sales offices, management offices and models may be designated as a Unit on the Condominium Map and may be sold by the Declarant.

26.1.4 Construction Facilities. The right of the Declarant and its employees, representatives, agents, and contractors to maintain on the Community temporary construction facilities and construction materials, staging yards, and other facilities reasonably required during the construction and sale period for the Units, and during the period for construction and sale of additional Commercial and Residential Units.

26.1.5 Construction Easements. The right to use easements through the Common Elements for the purpose of making Improvements within the Community or within real estate which may be added to the Community, and the right to use, and to permit others to use, easements through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations under the Act and this Declaration.

26.1.6 Consolidation on Merger. The right to merge or consolidate the Community with a similar common interest community.

26.1.7 Control of Association and Board of Directors. The right to appoint or remove any officer of the Association or any Board member during the Marketing Period.

26.1.8 Amendment of Declaration. The right to amend the Declaration in connection with the exercise of any Development Rights, Special Declarant Rights or Additional Reserved Rights.

26.1.9 Amendment of Condominium Map. The right to amend the Condominium Map in connection with the exercise of any Development Rights, Special Declarant Rights or Additional Reserved Rights.

26.2 DEVELOPMENT RIGHTS.

26.2.1 The right to relocate boundaries between adjoining Units, enlarge Units, enlarge the Common Elements or otherwise reduce or diminish the size of Units (reduce or diminish the size of areas of the Common Elements), subdivide Units owned by Declarant.

26.2.2 Create Additional Units. The right to create or construct additional Units, Common Elements and Limited Common Elements, to subdivide Units and to convert Units into Common Elements or to convert Common Elements into Units (subject to applicable governmental laws, rules and regulations, including, without limitation, applicable Town of Telluride zoning and land use regulations).

26.2.3 Annex Additional Real Property or Units. The right to add Units and to subject additional land consisting of all or any part of the Land to the provisions of this Declaration upon the substantial completion of improvements thereon.

26.2.4 The right to exercise any and all Development Rights reserved herein or otherwise allowed in the Act.

26.2.5 The right to amend the Declaration in connection with the exercise of any development right.

26.2.6 The right to amend the Condominium Map in connection with the exercise of any development right.

26.3 ADDITIONAL RESERVED RIGHTS.

26.3.1 Dedications. The right to establish, from time to time, by dedication or otherwise, utility and other easements for purposes including but not limited to streets, paths, walkways, skyways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of and to serve the Owners within the Community.

26.3.2 Assignment of Rights. The right to assign in whole or in part, to the Association, or to its successors in title to any portion of the Real Estate, and of the rights reserved in the Declaration upon execution and delivery of such assignment in writing;

26.3.3 The right to impose additional restrictive covenants and protective covenants upon the Real Estate provided they are not inconsistent with, nor do they lower, the standards of the original covenants;

26.3.4 Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulations of recreational facilities and/or Common Elements, which may or may not be a part of the Community.

26.3.5 Other Rights. The right to exercise any Additional Reserved Right created by any other provision of this Declaration.

26.4 Rights Transferable. Any Rights created or reserved under this Article or the Condominium Laws for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in every county in which any portion of the Community is located. Such instrument shall be executed by the transferor Declarant and the transferee. The rights transferred may then be exercised in compliance with the requirements of C.R.S. §38-33.3-210 and C.R.S. §38-33.3-209(6) without the consent of the Association, any Owner of a Unit or any holders of First Lien Security Interests.

26.5 No Further Authorizations Needed. The consent of Owners or holders of Security Interests shall not be required for the Declarant or its assignees to exercise any reserved rights, and Declarant or its assignees may proceed without limitation at their option, subject to existing land use, zoning laws and any planned unit development requirements of the Town of Telluride. Reserved rights of the Declarant or its assignees may be exercised with respect to different parcels of the Community at different times. Additionally, Declarant or its assignees may exercise any reserved rights on all or any portion of the Community in whatever order is determined. Declarant or its assignees shall not be obligated to exercise any reserved rights or to expand the Community beyond the number of Units initially submitted.

26.6 Amendment of the Declaration or Condominium Map. If Declarant or its assignees elect to exercise any reserved rights, that party shall comply with the Act.

26.7 Interpretation. Recording of amendments to the Declaration and the Condominium Map or plat pursuant to reserved rights in the Declaration shall automatically effectuate the terms and provisions of that amendment. Further, such amendment shall automatically vest in each existing Owner the reallocated Allocated Interests appurtenant to his Unit. Further, upon the recording of an amendment to the Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Community as expanded and to any Additional Improvements, and the same shall be added to and become a part of the Community for all purposes. All conveyances of Units after such amendment is recorded shall be effective to transfer rights in all Common Elements, whether or not reference is made to any Amendment of the Declaration or Condominium Map.

26.8 Termination of Reserved Rights. The rights reserved to Declarant for itself and its successors and assigns shall expire as set forth above or in the Act, unless (a) reinstated or extended by the Association, subject to whatever terms, conditions and limitation the Board may impose on the subsequent exercise of the expansion rights by Declarant, (b) extended as allowed by law, or (c) terminated by written instrument executed by the Declarant, recorded in the records of the Clerk and Recorder of San Miguel County, Colorado.

26.9 Additions by Others. Additions of Units to the Community may be made by persons other than the Declarant or its successors and assigns or Owners, upon approval of the Association pursuant to a vote of a majority of a quorum of its Members. Such approval shall be evidenced by a certified copy of such resolution of approval and a supplement or amendment to this Declaration, both recorded in the records of the San Miguel County Clerk and Recorder.

ARTICLE 27
REVOCATION OF DECLARATION

27.1 Revocation. This Declaration shall not be revoked unless all of the Owners and all of the holders of any recorded first Mortgage covering or affecting any or all of the Units consent to such revocation by an instrument(s) duly recorded in the real property records of San Miguel County, Colorado; except only as otherwise provided in Articles 20-21 pertaining to the appointment of the Association as attorney-in-fact in the event of damage, destruction, obsolescence or condemnation of the Community.

27.2 Amendment. During the Marketing Period, the Declarant shall have an absolute right to amend this Declaration with respect to any Units or Limited Common Elements owned by Declarant. After the Marketing Period, this Declaration may be amended if the Owners representing an aggregate ownership interest of 75% or more of the General Common Elements, the holders of duly recorded first Mortgages representing an aggregate of 75% of the total of said Mortgages covering or affecting any or all Units and the Declarant (for so long as Declarant owns an interest in the Community and thereafter without Declarant's consent) all unanimously consent and agree to such amendment by instrument(s) duly recorded; provided, however, that:

27.2.1 The percentage of the undivided interest in the Common Elements appurtenant to each Unit, as expressed in this Declaration, shall have a permanent character and shall not be altered without the consent of all of the Owners AND First Mortgagees expressed in an amended Declaration duly recorded; and

27.2.2 No such supplement shall increase the proportionate expenses chargeable against any Unit or Owner thereof without the unanimous consent of the Owners affected thereby expressed in an amended Declaration and/or Condominium Map duly recorded.

Notwithstanding the provisions of this Article 27, in the event of the combination, division or partition of a Unit or Units pursuant to the reservations set forth in Section 3.3 above, the Owner or Owners of the Unit or Units subject to such combination, division, or partition and the holders of any recorded first Mortgage or first deed of trust covering or affecting any such Unit or Units may amend this Declaration to reflect the adjustment (which adjustment must be based upon the relative square footage of the resulting spaces) between the resulting spaces and the Owner or Owners thereof with respect to the percentage ownership in the Common Elements and the percentage of Common Expenses attributable to such resulting spaces; provided, that any such amendment shall not increase or decrease the percentage ownership in the Common Elements of, or the percentage of Common Expenses to be paid by, any Owner not involved in such combination, division, or partition.

27.3 Consent of Junior Mortgagees. The consent(s) of any junior Mortgage holders shall not be required under the provisions of this Article.

27.4 Voting by First Mortgagees. In determining the appropriate percentage approval of the holders of first Mortgages, whenever such approval may be required for any action taken by the Owners or the Association pursuant to this Declaration, each First Mortgagee shall have one vote for each first Mortgage owned by it.

27.5 Challenge to Amendments. No action to challenge the validity of an amendment adopted by the Association pursuant to this section may be brought more than one year after the amendment is recorded.

27.6 Recordation. Every amendment to the Declaration must be recorded in every county in which any portion of the Community is located and is effective only upon recordation. An amendment must be indexed in the grantee's index in the name of the Community and the Association and in the grantor's index in the name of each person executing the amendment.

27.7 Unanimous Consent Required for Certain Amendments. No amendment may create or increase Special Declarant Rights or Development Rights, increase the number of Units, or change the boundaries of any Unit or the allocated interests of a Unit, or the uses to which any Unit is restricted, in the absence of unanimous consent of the Owners.

27.8 Association Certificate. Amendments to the Declaration required by this section to be recorded by the Association shall be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.

27.9 Expenses. All expenses associated with preparing and recording an amendment to the Declaration shall be the sole responsibility of:

27.9.1 In the case of an amendment pursuant to reallocation of Limited Common Elements, relocation of boundaries between adjoining Units, and subdivision of Units, the Owners desiring the amendment;

27.9.2 In the case of an amendment pursuant to allocation of Common Element not previously allocated as a Limited Common Element, recordation of new plats and maps, and exercise of development rights, the Declarant; and

27.9.3 In all other cases, the Association.

ARTICLE 28 MISCELLANEOUS

28.1 Registration by Owner of Mailing Address.

28.1.1 Each Owner shall register his mailing address with the Association, and except for monthly statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by regular United States Mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands or other notices intended to be served upon the Board or the Association shall be sent by regular United States Mail, postage prepaid, to the address of the Association as designated in the Articles of Incorporation and Bylaws.

28.1.2 All notices or demands intended to be served shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address.

28.2 Rules and Regulations. The Association may make reasonable Rules and Regulations governing the use of Units and of the Common Elements, which Rules and Regulations shall be consistent with the rights and duties established in this Declaration. Such Member shall be binding upon all Owners, invitees and guests, and the Association may take such administrative or judicial action as may be necessary to enforce compliance with such Member and to obtain damages and reasonable attorney's fees for noncompliance to the extent permitted by law.

28.3 Additional Rights of First Mortgagees. In addition to any other rights provided in this Declaration, any First Mortgagee who shall make a request in writing to the Association, shall have the following additional rights:

28.3.1 To be furnished a copy of the annual financial statement of the Association, such statement to be furnished at the time the same is furnished to the Owners.

28.3.2 To be given written notice by the Association of any meeting of the Association called for the purpose of considering any amendment, revocation or change to the Declaration or Articles of Incorporation. Such notice shall state the nature of any such change being proposed.

28.3.3 Upon reasonable notice to examine the books and records of the Association during normal business hours.

28.4 Severability. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

28.5 Applicability of the Act. The provisions of this Declaration shall be in addition and supplemental to the Act as herein defined.

28.6 Number and Gender. Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and the use of any gender shall include all genders.

28.7 Applicable Law. This Declaration is filed in the records of San Miguel County, Colorado and it is agreed that the proper jurisdiction and venue of any action pertaining to the interpretation or enforcement of this Declaration shall be in the District Court of San Miguel County, Colorado.

28.8 Binding Agreement. It is understood and agreed that this Declaration shall be binding upon the heirs, executors, administrators and assigns of the parties hereto.

28.9 Compliance with Provisions. Each Owner shall comply strictly with the provisions of this Declaration; the Articles of Incorporation, Bylaws, rules, regulations, resolutions and contracts of the Association as the same may from time to time be in effect. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Board, or the Managing Agent, on behalf of the Owners, or in a proper case, by an aggrieved Owner.

28.10 Reference to Ownership Interests. Whenever in this Declaration or in the Articles of Incorporation or Bylaws of the Association reference is made to a specific percentage interest of Owners, such reference shall be deemed to mean the total aggregate appurtenant interest in and to the General Common Elements as reflected in Exhibit "B" attached hereto and, unless the context otherwise requires, shall not be deemed to mean a percentage of Owners by number of individual persons, partnerships, corporations or other entities.

28.11 Reservations by Declarant. Notwithstanding time limitations contained in Article 26, Declarant reserves to itself for as long a period as this Declaration shall remain in effect, not to exceed 30 years, and hereby grants to the Association the right to establish from time to time, by dedication or otherwise (so long as same serves all the Owners within the Community and does not unduly interfere with the rights of any Owner), utility and other easements, for purposes including but not limited to paths,

walkways, drainage or recreation areas, parking or land areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions consistent with the condominium ownership of the Community to the best interest of all the Owners and the Association.

28.12 Enforcement. The Association or any Owner may enforce the restrictions, conditions, covenants and reservations imposed by the provisions of this Declaration by proceedings at law or in equity against any person or persons, either to recover damages for such violation, including reasonable attorneys' fees incurred in enforcing these covenants, or to restrain such violation or attempted violation. Failure of the Association or of any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Board may post on a bulletin Board at a conspicuous place on the General Common Area notices of any covenant violations by Members and copies of any recorded statements. Failure to post shall not affect the validity of any lien or covenant violation.

28.13 Compliance with Federal Fair Housing Act. In order to comply with the requirements of the Federal Fair Housing Act (as hereto and hereafter amended);

28.13.1 The Board may, to the extent permitted by law, make reasonable accommodations in the Member to the extent such accommodations are necessary under the aforesaid Federal Fair Housing Act or otherwise appropriate to afford a Person With a Disability equal opportunity to use and enjoy a unit, the Limited Common Elements appurtenant thereto, and/or the common Elements, which accommodations may include waivers and modifications (of such Rules and Regulations) that are applicable only to a particular Person With a Disability or to a particular category of Persons With a Disability. Unless required by law, (i) the Board needs not follow procedural requirements in making such waivers and modifications, and (ii) such waivers and modifications need not be approved by, or be subjected to disapproval by, the Members of the Association.

28.13.2 No rule or regulation of the Community shall be interpreted or enforced in such a way as to make unavailable or deny a Unit to any person, or to discriminate against any person in the provision of services or facilities in connection with the sale or rental of a Unit to such person, because of the familial status of such person, as the term "familial status" is defined under the aforesaid Federal Fair Housing Act.

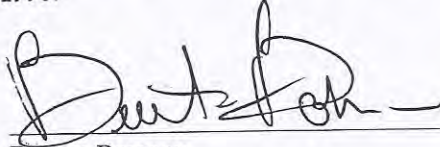
28.14 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate therein purposes of creating a uniform plan for the development of the Units and of promoting and effectuating the fundamental concepts as set forth in the recitals of this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado.

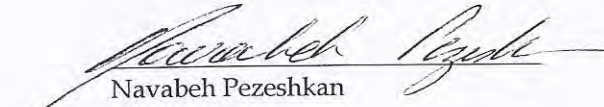
28.15 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

28.16 Association as Attorney-in-Fact - Power of Attorney. This Declaration does hereby make the irrevocable appointment of the Association as attorney-in-fact for all Owners to deal with the Condominium Property upon its destruction, obsolescence, repair or reconstruction or condemnation, and title to each Unit is declared and expressly made subject to the terms and conditions hereof and acceptance by the grantee of a deed from the Declarant or from any Owner shall irrevocably constitute and appoint the Association their true and lawful attorney in their name, place and stead for the purpose of dealing with the Condominium Property upon its destruction, obsolescence, repair or reconstruction. In the event the Condominium Property is sold by the Association, as attorney-in-fact, pursuant to Articles 20-21, the Association shall record a notice in the office of the Clerk and Recorder of San Miguel County, Colorado,

setting forth the circumstances of such sale, and this Declaration shall wholly terminate and expire upon the recording of such notice.

IN WITNESS WHEREOF, the Declarant has executed this Declaration effective as of this 15th day of June 1998.


Burton Borman


Navabeh Pezeshkan

STATE OF California)
) ss.
COUNTY OF Los Angeles)

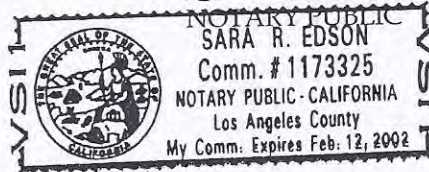


The above and foregoing Declaration has been acknowledged by me this 15th day of June 1998 by Burton Borman.

My Commission Expires: 02/12/02
Witness my hand and official seal.



STATE OF California)
) ss.
COUNTY OF Los Angeles)



The above and foregoing Declaration has been acknowledged by me this 15th day of June 1998 by Navabeh Pezeshkan.

My Commission Expires: 02/12/02
Witness my hand and official seal.


NOTARY PUBLIC

EXHIBIT "A"
to Declaration of Grants, Covenants, Conditions and Restrictions
(Description of Real Estate)

Lot 101A, Replat of Lots 101, 103, 105, Block 11, Town of Telluride, according to the Plat recorded October 18, 1996 in Plat Book 1 at Page 2140.

County of San Miguel,
State of Colorado.

310 406 - 1279

728-8855

EXHIBIT "B"
 to Declaration of Grants, Covenants, Conditions and Restrictions
 (Portions of Real Estate Designated for Separate Ownership)

| Units | Square Footage | Allocated Percentage | Annual | (2014) |
|--|-----------------|----------------------|---------------|---------------|
| <i>Pilates</i> — Commercial Unit 100 | 1283.9 | 10.0% | - 7,800.00 | :4 = 1950 |
| <i>A Lponschwarz</i> — Commercial Unit 101 | 1267.8 | 9.91% | - 7,729.80 | :4 = 1932.45 |
| Commercial Unit 102 | 1215.1 | 9.49% | - 7,402.20 | :4 = 1850.55 |
| <i>Daily Plndt</i> — Commercial Unit 103 | 1553.1 | 12.1%* | - 9,438.00 | :4 = 2,359.50 |
| <i>and film</i> — Commercial Unit 200 | 4640.4 | 36.3% | - 28,314.00 | :4 = 7,078.50 |
| <i>CURTIS MOE</i> — Residential Unit 301 | 1472.9 | 11.5% | - 8,970.00 | :4 = 2,242.50 |
| <i>MARIBEL DUEÑAS</i> — Residential Unit 302 | 1366.2 | 10.7% | - 8,346.00 | :4 = 2,086.50 |
| Total | 12,799.4 | 100% | 78,000 | 19,500 |

21.59% *77.8%*

400 sq.