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County San Miguel)
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Gay Cappis-Recorder By: *Rebecca Balderrama*

Deputy

Rec.No. **244425**

CONDOMINIUM DECLARATION
FOR
ETTA PLACE TOO CONDOMINIUMS

THIS CONDOMINIUM DECLARATION (this "Declaration") is dated this 30th day of JULY, 1985 and, is signed by all owners of record, constituting the party or parties who, collectively, possess all right, title and interest in the property set forth in EXHIBIT A, which by this reference is incorporated as if fully set forth verbatim herein. The undersigned owner shall be referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant has purchased from Moonshine Investors, a California partnership, that real property in the Town of Telluride, San Miguel County, Colorado, and described in EXHIBIT A, attached hereto and by this reference incorporated herein, (hereinafter referred to as the "Property"); and Declarant is the owner in fee simple of the Property and,

WHEREAS, Declarant desires to submit said Property to condominium ownership and to establish a condominium complex under and pursuant to the provisions of the Colorado Condominium Ownership Act, as amended (Section 38-33-101 et seq., C.R.S. 1973, as amended); and

WHEREAS, Declarant has an option to purchase from Moonshine Investors and Carr-Outpost Development Company, California partnerships, both hereinafter referred to as the "Sellers", the real property located in the Town of Telluride, San Miguel County, Colorado, described in EXHIBIT B, attached hereto and by this reference incorporated herein (the "Additional Property"); and

WHEREAS, Declarant owns certain buildings and other improvements now existing upon the Property and it, or its assigns (including but not limited to Sellers), may in the future construct an additional building or buildings and other improvements upon the Additional Property (to be added in the future to the Complex) all of which are included within the Property or Additional Property, and it is the desire and intention of Declarant, for itself and for the Sellers, to submit all existing and future buildings and improvements within the Property and Additional Property to a single condominium regime and sell and convey the same to various purchasers, subject to the covenants, conditions and restrictions herein reserved; and

WHEREAS, Declarant for itself and Sellers, desires and intends by filing this Declaration to submit the Property (and Additional Property as provided in the future by Supplements to this Declaration) to the provisions of the Condominium Ownership Act as a condominium property and to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of the Property and owners thereof.

NOW THEREFORE, Declarant does hereby publish and declare that all of the Property described above is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved, subject to the following terms, covenants, uses, conditions, definitions, easements, limitations, powers of attorney, obligations, reservations and restrictions and shall be deemed to run with the land and shall be a burden and a benefit to Declarant, its successors, grantees and assigns, and to any person acquiring any interest in the Property and the improvements thereon, their grantees, successors, heirs, executors,

administrators, devises and assigns, all of which are hereby subjected to this Declaration.

1. Definitions. As used in this Declaration and in amendments and/or supplements to this Declaration, unless the context otherwise requires, the terms hereinafter set forth shall have the following meanings:

a. Unit means all that one individual airspace which is contained within the interior unfinished surfaces of the perimeter walls, floors, ceilings, closed windows and doors of a particular Unit as depicted and identified on the Condominium Map heretofore filed for record, together with all fixtures and improvements therein contained but not including any of the structural components of the Complex or of a Building, (as such capitalized terms are hereinafter defined), if any, located within such Unit including but not limited to: bearing walls, floors, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, exits, roofs (except for the interior surface thereof, if a perimeter wall, floor or ceiling), foundations, columns, girders, beams, supports, shafts, installation of central services such as power, light, gas, incinerators, hot and cold water, heating, refrigeration, central air conditioning, elevators, tanks, pumps, motors, fans, compressors, ducts and other fixtures running through Units which are utilized for or serve more than one Unit, and in general all apparatus and installations existing for common use, wherever located, and all windows and doors, except for interior windows and interior doors.

b. Owner means the person or persons (as hereinafter defined), whose estates or interests, individually or collectively, aggregate fee simple absolute ownership of one or more Condominium Units in the Complex, and whose interest is evidenced of record in the Office of the Clerk and Recorder, San Miguel County, Colorado.

c. General Common Elements means and includes all of the Property described on said EXHIBIT A, except the portions thereof which are Units, and means and includes the improvements which are, or maybe necessary or convenient to the support, existence, use, occupation, operation, maintenance, repair or safety of a Building and/or Unit therein including but not limited to the following:

(i) all of the property which is not located within a Unit as depicted on the map and as defined herein including specifically the airspace above and about the Units and the land surrounding the underlying Units;

(ii) all foundations, columns, girders, beams and supports of any Building on the Property;

(iii) the exterior walls, to the undecorated an/or unfinished interior surfaces thereof, the main or bearing walls within a Building, the main or bearing subflooring and the roof of a Building;

(iv) any and all utility, service and maintenance rooms, space, fixtures, apparatus, conduits, wires, installations and central facilities for power, light, gas, telephone,

television, hot water, cold water, heating, refrigeration, air conditioning, chutes, ducts, flues, incineration, or similar utility, which is/are provided for service, safety, or maintenance purposes;

(v) as specified in Paragraph 28, the undivided interest in and to the General Common elements appurtenant to each Unit built upon Additional Property, if any, shall not be a part of the Condominium Units described and initially created by this Declaration.

d. Association means the ETTA PLACE TOO CONDOMINIUM ASSOCIATION, a Colorado non-profit corporation and its successors, the Articles of Incorporation (hereinafter called the "Articles"), By-Laws (hereinafter called the "By-Laws") and duly promulgated rules and regulations of which, along with this Declaration, shall govern the administration of the Complex; the Members of which Association shall be all of the Owners of the Units in the Complex.

e. Building means any building containing Units shown on the map unless specific reference is made to one or more particular building structures within the Complex. Building also means all structures containing Units to be erected upon the Property. Each Building shall be identified by a letter or other distinctive designation.

f. Common Expenses means and includes, but are not limited to:

(i) all sums lawfully assessed against the Owners and their Units by the Association;

(ii) expenses of administration, management, common utility service, maintenance, repair or replacement of the General Common Elements or of the Association property, all as herein defined;

(iii) expenses declared Common Expenses by provisions of this Declaration and the By-Laws of the Association;

(iv) expenses of snow removal and maintenance of public or private roadways, walkways or other areas within and/or adjacent to the Complex and necessary and/or convenient to the Complex or part thereof; and

(v) expenses agreed upon as Common Expenses by a majority vote of the Owners, representing an aggregate ownership interest of fifty-one percent (51%), or more, of the General Common Elements.

g. Limited Common Elements means those parts of the General Common Elements, the rights of use of which are limited to, appurtenant to and reserved as incidents of ownership of that Unit indicated herein or on the Map, to the exclusion of the other Owners, including windows and doors which are a part of a Unit. The abbreviation "L.C.E." herein or on the Map followed by the identifying symbol of a Unit identifies a part of the General Common Elements which is a Limited Common Element, limited to use only in connection with that or those indicated Units. Limited Common Elements are described further in Section 5 of this Declaration.

h. Person means a natural person, a corporation, partnership, limited partnership, trustee or any other legal entity or any combination thereof recognized by Colorado Law as capable of holding title to real property.

i. Mortgage means any duly recorded mortgage, deed of trust or other similar security instrument comprising a lien or encumbrance on any Condominium Unit, and Mortgagee means any grantee, beneficiary or assignee of a Mortgage. First Mortgagee means the Mortgagee under the Mortgage which is the first and most senior of any duly recorded Mortgages or other liens except real property taxes encumbering a Condominium Unit.

j. Condominium Unit means a particular Unit together with the appurtenant undivided interest in and to the General Common Elements assigned to that Unit by and under this Declaration and set forth on EXHIBIT C attached to and hereby made a part of this Declaration, together with the right to use, to the exclusion of all or some other Owners, any Limited Common Elements (created by this Declaration and/or by designation on the Map) together and subject to all other rights, easements and burdens created by this Declaration.

k. Complex means all of the Property, Additional Property, Buildings and improvements submitted to Condominium Ownership by this Declaration and by any amendment(s) and/or supplement(s) to this Declaration.

l. Board of Directors or Board refers to the governing board, of the Association, elected pursuant to the applicable provisions of the By-Laws.

m. Managing Agent means the Person employed and so designated by the Board to perform the management and operation functions of the Complex. There shall be only one Managing Agent for the Complex. Property and Additional Property.

n. By-Laws means the duly adopted By-Laws of the Association.

o. Articles of Incorporation or Articles means the Articles of Incorporation of the Association.

p. Guest means any agent, employee, tenant, guest, licensee or invitee of an Owner.

q. Declarant means W. Albert Ellis and George Macomber, trustees of Etta Place Too Associates, a Massachusetts limited partnership and business trust, and its assigns, including but not limited to the Sellers.

r. Sellers means Carr - Outpost Development Company and Moonshine Investors, both California partnerships, and their successors in interest to the Additional Property.

s. Map or Condominium Map means the Condominium Map bearing the name of this Condominium Complex filed for record in the office of the San Miguel County, Colorado Clerk and Recorder, as well as any Map Supplements and/or amendments thereto so filed unless specific reference is made to a

particular numbered Map supplement. Map Supplements and/or amendments to the Map shall be sequentially numbered and shall, to the extent feasible, be numbered or otherwise designated to correspond to the Supplement to this declaration applicable to the same building.

t. Declaration means this Condominium Declaration as well as any duly executed amendments and Supplements to this Declaration shall include all such amendments and/or Supplements then so recorded unless a more limited meaning is expressed. Since it is intended that the Complex will be completed and expanded in stages over a period of time, it is intended that one or more Supplements to this Declaration will be executed and recorded adding additional real property and additional buildings and Units to the Complex as they are substantially completed. Each such Supplement to this Declaration shall be sequentially numbered or otherwise designated and to the extent feasible, shall correspond in designation to the supplemental Map being filed for record in connection therewith.

u. Property means that real property, and all improvements located thereon, set forth in EXHIBIT A, attached hereto and by this reference incorporated herein.

v. Additional Property means that real property, and all improvements now or in the future located thereon, set forth in EXHIBIT B, attached hereto and by this reference incorporated herein.

2. Map to be filed for record, supplements. Prior to the conveyance of any Condominium Unit to a purchaser there shall be filed for record in the office of the Clerk and Recorder of San Miguel County, Colorado, a condominium map, hereinafter referred to as the "Map" which map may be filed for record in whole or in parts or sections, from time to time, and if filed in part shall be supplemented as completed improvements are determinable, or Additional Property added. Each such map and/or addition, section of, or map supplement thereto shall depict:

a. The legal description of the surface of the Property described on EXHIBIT A to this Declaration and a survey thereof and/or, in the case of supplements to the Map, the surface of that additional real property being added to the Complex (the Additional Property) and being submitted to Condominium Ownership by Supplement to this Declaration;

b. The linear measurements and location, with reference to the exterior boundaries of said land, of the Buildings and all improvements built on said land depicted;

c. Perimeter floor plans and elevation plans of building improvements on said land, showing the horizontal and vertical location, the letter and/or number designation and the linear dimensions of each Unit, and the designation of so many of the Limited Common Elements as can reasonably be depicted on said Map. Said Map need not depict those utility lines or fixtures which are located within walls, attics, the ground or other places where they are not normally visible which are General Common Elements or which,

because they serve only one Unit, are Limited Common Elements;

d. The elevations of the unfinished interior surfaces of the floors and ceilings as established from a datum plane and the linear measurements showing the thickness of the perimeter walls and those walls separating one Unit from another in the Buildings containing individual Units.

It is intended that this condominium development will proceed in stages over a period of time and over more than one building season. Thus, the original map will depict the first completed Building or Buildings on the Property and described on EXHIBIT A to this Declaration. As additional Buildings are substantially completed, the Map and this Declaration will be supplemented to add Additional Property and additional Buildings and Units to the Complex. Each section of the Map filed for record subsequent to the first or initially filed Map shall be termed a Map Supplement. The sequence of Map Supplements and Supplements to this Declaration shall be correspondingly designated (by numerical designation or otherwise).

The Map and any Map Supplement(s) shall comply with Colorado Law, shall not be filed for record until any Building shown thereon has been substantially completed and shall contain a statement of any architect, engineer or duly registered land surveyor certifying that such Map fully and accurately depicts the layout, measurement and location of all the improvements, the Buildings and the Building designations, the Units and the Condominium Unit designations, the dimensions of such Units, all Limited Common Elements which can be reasonably depicted and the elevations of the floors and ceilings. Declarant hereby reserves unto itself and to the Association the right, from time to time, without the consent of any Owner or Mortgagee being required: to amend the Map and Map Supplement(s) to conform the Map to the actual location of any of the constructed improvements.

3. Statement of Purpose, Division Into Condominium Units. The Property is hereby divided in ownership into Condominium Units, each consisting of a separate, fee simple absolute estate in a designated Unit, together with the appurtenant, fractional or percentage, undivided fee simple interest in and to the General Common Elements which is set forth opposite the designating Unit symbol on EXHIBIT B attached to and by this reference made part of this Declaration, and together with the right to use, to the exclusion of others, any Limited Common Elements designated herein and/or on the Map as appurtenant to the Unit or Units in question.

4. Right to Connect Units. An Owner may physically connect one Unit with one or more adjoining Units owned by the same Owner, provided however, that no such right may be exercised without advance written consent of the Association, properly authorized building authorities and of any First Mortgagee having a Mortgage on either or both of said Units. In the event of any such physical connection of Units, penetration of any General Common Element wall, ceiling or floor between such Units shall be done only at the location and in the manner approved in advance and in writing both by the Association and by appropriate governmental building officials. Upon separation of ownership of the connected units, any General Common Element wall, ceiling or floor between such Units shall be immediately restored to its original (unpenetrated) state by and at the sole expense of the Owners of the Units in question who shall cause the restoration of the penetrated wall, ceiling or floor to meet all governmental requirements.

and inspections. Upon the failure of such Owners promptly to attend to the foregoing, the Association shall have the right but not an obligation to take all necessary action to restore the wall separating the Units in question, at the expense of the defaulting Owner(s). The costs so incurred shall be a debt of the grantors and grantees of, and a lien against both or all such previously connected Units in accordance with the lien provisions elsewhere in this Declaration.

5. Limited Common Elements. Subject to the provisions herein, the Limited Common Elements shall be identified on the Map. Any balcony or patio which is accessible directly from, is associated with and which adjoins an individual Unit shall, without need for further reference thereto, be a Limited Common Element to be used in conjunction with such Unit to the exclusion of others, except by invitation of the Owner(s) of the Unit in question. Exterior windows and doors, which abut one Unit only and do not provide access to more than one Unit, shall be considered Limited Common Elements.

6. Inseparability of Condominium Unit Elements. A Condominium Unit's undivided interest in and to the General Common Elements, rights to use of designated Limited Common Elements and/or other rights which are by this Declaration made appurtenant to or part of a Condominium Unit, shall not be separated from the Condominium Unit of which it and/or they are part of or appurtenant to, be deed, lease, encumbrance or otherwise and shall be deemed to be conveyed or encumbered with the Condominium described in a deed or other instruments.

7. Description of Condominium Unit.

a. A contract written prior to the Map and Declaration having been filed for record may legally describe a Condominium Unit by its identifying unit symbol followed by the designation of the Building within which the Unit is located and the name of this condominium Complex with further reference to the Map and any applicable Map Supplements thereto and to the Declaration and any applicable Supplements thereto to be filed for record.

b. Subsequent to the Declaration and the Map being filed for record, every contract, deed, lease, Mortgage, will or any other instrument may describe a Condominium Unit in this Complex according to the following description format:

"Condominium Unit _____, Building _____, Etta Place Too Condominiums according to the Condominium Map (and the _____ Map Supplement) thereof filed for record, and according and subject to the Condominium Declaration (and _____ Supplement to said Condominium Declaration) therefore recorded in Book _____, at Page _____ in the records of the San Miguel County Clerk and Recorder, San Miguel County Colorado.

(Matters in parentheses will apply only to condominium Units added to the Complex by Supplements to this Declaration.)

c. Every such description includes and describes the entire Condominium Unit, including its included and appurtenant fractional, undivided interest in and to the General Common Elements, a non-exclusive easement for ingress and egress between the Unit and the public way, exclusive or semi-exclusive use of any and all of its

designated, appurtenant Limited Common Elements, and all of the other rights, easements, obligations, limitations, covenants and restrictions included in the definition of such Condominium Unit as provided in this Declaration and, further, shall convey, without the need for further description, specification or elaboration, any and all additional incidents of ownership and/or additional property and rights in and to the Complex, its recreational facilities which may have been added to or become appurtenant to a Condominium Unit by Supplement(s) to this Declaration subsequent to the date of recordation of deed, Mortgages or other documents affecting title to a particular Condominium Unit unless a contrary intent is specifically express.

The initial deeds conveying each Condominium Unit may contain reservations, exceptions and exclusions which the Declarant deems to be consistent with and in the best interests of all condominium Unit Owners and the Association.

8. No Partition. The General Common Elements shall be owned in common and shall remain undivided. No right of action either for partition or division either of the Common Elements of an individual Condominium Unit or of an individual Unit shall or does exist whether by conveyance, contract, lease, easement, judicial proceeding or otherwise, it being crucial to the integrity of the Complex that no such division or partition occur.

9. Separate Taxation of Condominium Units. Written notice of the submission of this property to condominium ownership shall be given as provided by law to the San Miguel County Assessor. Thenceforth all taxes, assessments and other governmental impositions of the State of Colorado or of any political subdivision, special district or of any other taxing or assessing authority shall be assessed and collected against each Condominium Unit separately and not against a Building or the Complex as a whole. Each separate Condominium Unit shall be designated on tax records as a separate and distinct parcel. For the purpose of valuation for assessment, the valuation of the General Common Elements shall be apportioned among the several Condominium Units in proportion to their fractional or percentage undivided interests in the General Common Elements. The lien for taxes assessed against any Condominium Unit shall be confined to that Condominium Unit. No forfeiture or sale of any Condominium for delinquent taxes, assessments or other governmental impositions shall divest or in any way affect the title to any other Condominium Unit.

10. Title. A Condominium Unit may be held and owned by more than one Person as joint tenants, as tenants in common, or in any form of real property co-ownership recognized under the laws of the State of Colorado.

11. Certain Work Prohibited. No Owner shall undertake any work in his or her Unit or elsewhere in the Complex which would jeopardize the soundness or safety of a Unit or Building of the Complex, reduce the value thereof or impair an easement or hereditament thereon or thereto without the unanimous vote of all other Owners and First Mortgagees having been obtained prior to commencement of such work. Structural alterations shall not be made by an Owner to a Building, to roof trusses or other supporting members, common water, gas or steam pipes, electric or other utility conduits, plumbing or other fixtures connected therewith, nor shall an Owner remove any improvements or fixtures from a Building, the Complex or any part thereof without prior written consent of the Board of Directors first having been

obtained. No owner shall enclose, by means of screening or otherwise, any balcony, yard, deck, patio or porch which is accessible from, associated with, and which adjoins a Unit, without having first obtained the prior written approval of the Board (which approval may be withheld for any reason).

12. Liens Against Condominium Units - Release of Lien - Effect of Part Payment.

a. After completion of any alterations, modifications or additions to the improvements shown on the Map, liens or encumbrances shall only arise or be created against an individual Condominium Unit in the same manner and under the same conditions as liens and encumbrances may arise or be created against any other parcel of real property subject to individual ownership, with the consent of, or at the request of an Owner or her or his agent shall be the basis for the filing of a lien pursuant to law against the Unit or other property of another Owner not expressly consenting to or requesting the same, except that express consent shall be deemed to have been given by the Owner of any Unit to the Association and/or Managing Agent in the case of need for emergency repairs. Labor performed upon, or materials furnished for incorporation into the General Common Elements, if duly authorized by the Association or its Managing Agent in accordance with the Declaration or the By-Laws, shall be deemed to be performed or furnished with the express consent of each Owner.

b. Each Owner shall indemnify and hold each of the other Owners harmless from and against liability or loss arising from any claim of lien against all or part of the condominium Unit of another Owner, for labor or materials furnished in work on such indemnifying Owner's Unit. At the written request of any Owner, the Association shall enforce such indemnity by collecting from the Owner of the Unit on which the labor was performed and/or materials furnished, the amount necessary to discharge any such lien and all costs incidental thereto, including reasonable attorney's fees. If not promptly paid, the Association may proceed to collect the same in the manner provided herein for collection of assessments hereunder for the purpose of discharging the lien.

13. Use and Occupancy of Units. Each Owner shall be entitled to the exclusive ownership and possession of his or her Unit. Each Unit shall be used for residential purposes only, unless otherwise expressly provided by Declarant or Sellers in writing. A Unit may be used for any business or commercial activity permitted by zoning, with written approval of Declarant or Seller as set forth above, including but not limited to: (i) A Unit may be leased or rented for private, residential purposes; (ii) Declarant or its nominee may use any Unit(s) it owns as a model or sales unit until all units are sold; and (iii) the Association shall have the right but not the obligation to purchase and own any condominium Unit for any use which the Board determines is consistent with the operation of the Complex. The Association may also maintain one or more offices and/or storage facilities within the General Common Elements, compatible with the Complex. However, no commercial use may be maintained in any Unit which unreasonably interferes with the quiet use and enjoyment of any other Unit located within the Complex.

14. Use of General and Limited Common Elements. The Common Elements may be used only in accordance with the purposes for which intended, without hindering or encroaching upon the lawful rights of others. The Association may adopt rules and regulations governing the use of General and Limited Common Elements pursuant to which part of the General Common Elements may be allocated to the use of one or more but fewer than all Owners. Such rules and regulations shall be uniform and non-discriminatory. Each Owner, Mortgagee, Tenant and/or Guest by the Acceptance of its deed, lease, Mortgage or other instrument of conveyance or assignment agrees thereby to be bound by this Declaration, the Articles, the By-Laws and by any such adopted rules and regulations.

15. Various Rights and Easements.

a. Owner's Rights in Limited Common Elements: Subject to the other provisions of this Declaration each Owner, his or her family and such Owner's Guests, shall have the right to use and enjoy the Limited Common Elements defined herein and/or designated on the Map as appurtenant to the Unit of such Owner. Certain of the Limited Common Elements may be designated on the Map for common use in conjunction with more than one, but fewer than all Units.

b. Association Rights: The Association, its Board and its Managing Agent shall have a perpetual, non-exclusive right and easement to make such use of, and to enter into or upon the General Common Elements, the Limited Common Elements and the Units as may be necessary or appropriate for the performance of the duties and functions which they are obligated or permitted to perform under this Declaration.

c. Owner's Easement for Access, Support and Utilities: Each Condominium Unit shall include a perpetual, non-exclusive easement appurtenant to any part of such condominium ownership interest for access between the Unit in question and the public way adjacent to the Complex, and over and across the lawns, walks, driveways and all other General Common Elements of the Complex, an easement for horizontal and lateral support of her or his Unit for utility services, including water, sewer, gas, electricity, telephone, television and all other utility services to such Unit. Such easement interest is expressly subject to the right of the Declarant to grant other such non-exclusive easement rights to others as part of sales and conveyances of Condominium Units in the Complex.

d. Easements for Encroachments: If any part of the General Common Elements encroaches or shall hereafter encroach upon a Unit, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Elements, or upon another Unit, the Owner of the encroaching Unit shall and does have an easement for such encroachment and for the maintenance of same. Such encroachments shall not be considered to be encumbrances either against the title to the Common Elements or any Condominium Unit. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of a Building, by error in the map,

by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Complex or any part thereof.

e. Easements within the Units for Repair, Maintenance and Emergencies: Some of the General Common Elements are or may be located within a Unit or may be conveniently accessible only through a particular Unit. The Association, Managing Agent and each Owner shall have a perpetual easement, which may be exercised on behalf of any Owner by and through Association or the Managing Agent, as agent for such Owner, for access through any Unit and all Common Elements, from time to time, during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Unit. Damage to the interior of any Unit resulting from the maintenance, repair, emergency repair or replacement of any of the Common Elements, or as a result of emergency repairs within another Unit, at the instance of the Association, shall be a Common Expense of all the Owners. No diminution or abatement of Common Expense assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements or from action taken to comply with any law, ordinance or lawful order of any governmental authority. Restoration of the damaged improvements shall be substantially the same condition as existed prior to the damage.

f. Easements Deemed Appurtenant. The easements, servitudes uses and rights herein created shall be appurtenant to, inseparable from and part of each of the Condominium Units. All Conveyances of, and other instruments affecting title to a Condominium Unit shall be deemed to grant and reserve the easements, servitudes uses and rights as are herein provided, even though no specific reference to such easements, servitudes uses and rights need appear in any such conveyance.

16. Owner's Maintenance Responsibility. For purposes of maintenance, repair, alteration and remodeling, an Owner shall be deemed to own the interior non-supporting walls, the materials (such as, but not limited to, plaster, gypsum drywall, paneling, wallpaper, paint, wall and floor tile, and flooring) but not surfaces of the perimeter walls, ceilings and floors within the Unit and all of the Unit's windows and doors. An owner shall not be deemed to own lines, pipes, wires, conduits or systems (for brevity, hereafter called "Utilities") running through his Unit which serve one or more other Units, except as a co-tenant with the other Owners. An Owner's right to maintain, repair, alter and remodel a Unit carries with it the obligation to replace any finishing or other materials removed with similar or other types or kinds of materials of at least equal quality. An Owner shall maintain and keep in good repair and in a clean, safe, attractive and sightly condition the interior of her or his own Unit, including the fixtures, doors and windows thereof and the improvements affixed thereto, and such other items and areas as may be required by the By-Laws or by rules and/or regulations promulgated pursuant to this Declaration or the By-Laws. An Owner shall maintain and keep in a neat and clean condition, any balcony or patio area adjoining and/or leading to such Owner's Unit as well as areas which are shown on the Map as Limited Common Elements appurtenant to such Owner's condominium

Unit. All fixtures and equipment installed within a Unit, commencing at the point where the utilities enter the Unit and any fixtures, equipment and utility facilities serving only that one Unit shall be maintained and kept in repair by and at the expense of the Owner thereof. If any Owner fails to carry out or neglects the responsibilities set forth in this paragraph, the Association may fulfill the same and charge such Owner therefor. Any expense incurred by an Owner under this paragraph shall be the sole expense of said Owner.

17. Compliance with Provisions of this Declaration, Articles Incorporation By-Laws of the Association. Each Owner shall comply strictly with and shall cause each of his or her guests, agents and tenants to comply strictly with all of the provisions of this Declaration, the Articles of Incorporation, By-Laws of the Association, and the decisions, rules, regulations and resolutions of the Association adopted pursuant thereto, as the same may be lawfully amended from time to time. The Association's Board may from time to time, adopt, modify and enforce rules and regulations, penalties, fines of up to \$200.00 per violation and/or sanctions to compel compliance with said Articles, By-Laws, rules, regulations and the Declaration or to prevent or abate nuisances, disorderly or unsafe conduct in or about the Complex. Owners may be held responsible and may be fined or otherwise sanctioned for the misconduct of their families, guests, agents or tenants. Failure to comply with any of such shall be grounds for legal action to recover fines, penalties and/or other sums due and for damages or injunctive relief of both, along with costs of suit and reasonable attorneys' fees, maintainable by the Managing Agent or Board of Directors in the name of the Association for itself and/or on behalf of on or more of the Owners, or, in a proper case, by an aggrieved Owner.

18. The Association. The Property and all improvements thereon shall be governed and administered by the Association.

a. General Purposes and Powers: The Association through its Board and/or a Managing Agent shall perform functions and hold and manage property as provided in this Declaration so as to further the interests of the Owners and shall have all powers necessary or desirable to effectuate such purposes.

b. Membership. The fee simple Owner of a Condominium Unit within the Property shall automatically become a Member of the Association, said membership being appurtenant to title to a Condominium Unit. The membership appurtenant to a Condominium Unit shall automatically pass with fee simple title to the Condominium Unit with each Owner automatically being entitled to the benefits and subject to the duties and responsibilities relating to the regular membership for his or her Unit. If title to a Condominium Unit is held by more than one Person, each co-owner of a fee interest in a Condominium Unit shall be a Member of the Association. Memberships in the Association shall be limited to Owners of Condominium Units within the Property.

c. Board of Directors. The affairs of the Association shall be managed by a Board of Directors, which may by resolution be delegated any portion of its authority (without thereby being relieved of its responsibility) to a Managing Agent for the Association. There may be no less than two nor more than six Directors and

initially there shall be three Directors until a different number is set forth, from time to time, in the By-Laws. All of such Directors (except the initial Board of Directors who need not be Owners) shall be Owners elected by Owners. Regardless of the number of Directors, such Directors shall serve a one year term.

d. Voting of Owners. The Owner(s) of each Condominium Unit shall initially have (an aggregate) vote equal to said Unit's type as set forth in Exhibit B to this declaration, such (aggregate) voting right shall be established and modified consistent with the formula set forth in paragraph 28 of this Declaration. Only one natural person shall exercise the voting rights of any one Condominium Unit at any meeting or, under other circumstances, act as spokesperson for all Owners of a given Condominium Unit.

e. Articles of Incorporation and By-Laws. The purposes and powers of the Association and the rights and obligations with respect to Owners set forth in this Declaration may and shall be amplified by provisions of the Articles of Incorporation and By-Laws of the Association, which may be amended from time to time as provided herein.

19. Certain Rights and Obligations of the Association.

a. Association as Attorney-in-Fact for Owners. The Association is hereby irrevocably and perpetually appointed Attorney-in-Fact for Owners, and each of them, during such time as each may be an Owner, to manage, control and deal with the interests of such Owners in the Complex so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder, to deal with the Property under its destruction or obsolescence as hereinafter provided; and as such Attorney-in-Fact to grant access or utility easements through any portion of the Property's General Common Elements. The acceptance by any Person of any interest in any Condominium Unit shall constitute the appointment of the Association as Attorney-in-Fact as provided herein. The Association is granted all of the powers necessary to govern, manage, maintain, repair, administer and regulate the Property and to perform the duties required of it. Notwithstanding the above, unless First Mortgagees of 75% of all Condominium Units have given their prior written approval, the Association and Additional Property Association shall not be empowered or entitled to:

(i) By act or omission, seek to abandon or terminate the condominium Complex;

(ii) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any of the General or Limited Common Elements (which would require 100% approval of Owners and lienholders affected by such amendment); or

(iii) Use hazard insurance proceeds paid or payable as the result of loss to the improvements for other than repair, replacement or reconstruction of such improvements.

b. General Common Elements. The Association shall provide for the care, operation, management, maintenance, repair and replacement of the General and Limited Common Elements located within the Complex, except as is provided in Paragraph 16 herein. Without limiting the generality of the foregoing, said obligation shall include keeping such Common Elements in good, clean, attractive and sanitary condition, order and repair; removing snow and foreign materials such as might impair access to or from the Complex or to the individual Units; keeping the Complex safe, attractive and desirable; and making necessary or desirable alterations, additions, betterments or improvements to or on the Complex's Common Elements. Declarant reserves the right to add to the Association's Common Elements, in which the Unit Owners shall then have an interest according to the formula set forth in Paragraph 28 hereto. The interest in additional Common Elements acquired by a Unit Owner shall be in addition to the interest in Common Elements then owned by the Unit Owner, and shall not be in derogation of or take away from any interest which an Owner has in the General Common Elements.

c. Other Association Functions. The Association may undertake any activity, function or service for the benefit of or to further the interests of all, some or any Owners on a self-supporting, special assessment or common assessments basis. Such activities, functions or services may include, but need not be limited to, the providing of security services, garbage and trash collection services, firewood, general management services, and maid and cleaning services for individual Units.

d. Labor and Services. The Association (i) may obtain and pay for the services of a Managing Agent to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Property, whether such personnel are furnished or employed directly by the Association or by any person with whom or with which it contracts; (ii) may obtain and pay for legal and/or accounting services necessary or desirable in connection with the operation of the Property or the enforcement of this Declaration; and (iii) may arrange with others to furnish lighting, heating, water, snow plowing, grading, trash collection, alley and/or driveway maintenance, landscape maintenance, painting and decorating, sewer service and other common services.

e. Property of Association. The Association may pay for, acquire and hold real or tangible and intangible personal property and may dispose of the same by sale or otherwise. Subject to the rules, regulations and orderly operation of the Association, each Owner and each Owner's family and guests may use such property (i.e. maintenance and office equipment and supplies) as is suitable for common use. Upon termination of condominium ownership of the Complex and dissolution of the Association, if ever, the beneficial interests in any such property shall be deemed to be owned by the then Owners as co-tenants in the same proportions as their respective interests in the

General Common Elements. A transfer of a Unit shall transfer with it the ownership of the transferer's beneficial interests in such property in accordance with the purposes for which it is intended, without hindering or encroaching upon the lawful rights of the other Owners. The transfer of title to a condominium Unit under foreclosure shall entitle the purchaser to the appropriate beneficial interests in such property associated with the foreclosed condominium Unit.

f. Association Right to Lease and Licenses General Common Element. The Association shall have the right to lease, license or permit the use of, by fewer than all Owners or by non-owners, on either a short-term or long-term basis with or without charge as the Association may deem desirable, any item of property owned by the Association and/or portion of the General Common Elements or any Condominium Unit owned by the Association. The rights granted to the Association in this Subparagraph shall only be used in the promotion of the collective best interests of the Owners.

g. First Mortgagees' Inspection Rights. The Association shall, upon written request from a First Mortgagee, accord to such First Mortgagee of a Condominium Unit the right to examine the books and records of the Association at any reasonable time. Further, the Association shall, upon written request from a First Mortgagee, notify such First Mortgagee of any proposed amendment of the Association's Articles of Incorporation or By-Laws at least ten (10) days prior to the effective date of such amendment or change.

h. Enforcement by Association. The Association may, in accordance with procedures set forth in its By-Laws, suspend any Owner's voting rights in the Association during any period or periods during which such Owners fails to comply with the Association's rules and regulations, or with other obligations of such Owner under this Declaration.

The Association may also take judicial action against any Owner to enforce compliance with such rules, regulations or other obligations or to collect fines, sanctions or damages for noncompliance, all to the extent permitted by law.

i. Implied Rights. The Association shall have and may exercise any right or privilege given to it expressly by this Declaration, or reasonably to be implied by law, or which may be necessary or desirable to fulfill its duties, obligations, right or privileges.

20. Assessment for Common Expense. All Owners shall be obligated to pay the estimated Assessments imposed by the Board of Directors of the Association to meet the Common Expenses of the Complex. The Assessments shall be made pro rata according to each Condominium Unit's percentage interest in the Common Elements, as set forth in the formula established in Paragraph 28 hereto.

Declarant shall be obligated as any other Owners with respect to Condominium Unit's then Owned by Declarant, to pay any and all assessments imposed by the Board to meet the Common Expenses. Except as otherwise herein provided, the Limited Common Elements shall be maintained as General Common Elements and Owners having exclusive or semi-

exclusive use thereof shall not be subject to any special charges or assessments except to the extent that maintenance is the clear result of misuse by, or misconduct of a particular Owner, in which case the Association shall charge such Owner for the maintenance or repair in question. Such charge may be the basis for a lien against an Owner's Condominium Unit in accordance with procedures set forth in this Declaration. Assessments for the estimated Common Expenses, including common fire and casualty insurance shall be due according to a schedule set by the Condominium Association but in any even payment of assessments shall at least occur every two months, in advance, on the first day of each second month, or more frequently as may be determined by the Board. The Managing Agent or Board of Directors shall prepare and deliver or mail to each Owner a statement therefor. Contribution for assessments shall be prorated if the ownership of a Unit commences or ends on a day other than the first day of a month. The assessments made for Common Elements shall be based upon the cash requirements deemed to be such aggregate sum as the Managing Agent or Board of Directors shall from time to time determine to provide for payment of all estimated expenses plus reasonable reserves for foreseeable or unforeseeable expenses growing out of, or connected with the maintenance and operation of the Complex's General Common Elements, which sum may include, among other things: expenses of management, taxes and special assessments for the Complex until separately assessed; premiums for insurance of the types and kinds hereafter provided for in this Declaration; maintenance, repair, replacement or improvement of recreational facilities; landscaping and care of grounds; snow plowing; driveway, walkway and parking area (if any) maintenance, exterior painting and staining; common lighting; repairs and renovations; trash collection; wages; water charges for Common Element maintenance; legal and accounting fees; management fees; capital expenditures made by the Board not exceeding \$10,000.00 per year (unless a greater amount is approved by Owners owning a majority interest in the General Common Elements); expenses and liabilities incurred by the Managing Agent or Board of Directors under or by reason of this Declaration; deficits remaining from a previous period; and other costs and expenses relating to the Complex's General Common Elements. Further, it shall be mandatory for the Managing Agent or Board to establish, out of such monthly assessments, one or more contingency or reserve funds for the repair, replacement and maintenance of those Common Elements (such as driveway surfacing, exterior paint and/or stain, signage, roofing, snow removal and other items) of the Complex which must be replaced or performed periodically. The omission or failure of the Managing Agent or the Board of Directors to fix the assessment for any month shall not be deemed a waiver, modification or release of the Owners from their obligation to pay. Any Owner or First Mortgagee may, pursuant to Colorado Law, inspect the Association's records of receipts and expenditures at any reasonable time, and upon ten days notice to the Board of Directors or the Managing Agent may, but shall not be required to, refund to each Owner his or her proportionate share of funds then held by the Association which are not deemed to be necessary to meet the Complex's Common Expenses.

21. Assessment Reserves. The Association may require an Owner to deposit with the Association an amount up to three times the amount of the estimated monthly common assessment, which sum shall be held, without obligation as to interest, by the Association or Managing Agent as a reserve to be used for working capital. Such an advance payment shall not relieve an Owner from making the regular payment of the monthly common assessment as the same comes due.

22. Additions, Alterations and Improvements - General and Limited Common Elements. There shall be no capital additions, alterations or improvements, of the Complex by the Association requiring an expenditure in excess of Ten Thousand Dollars (\$10,000.00) in any one calendar year without prior approval of a majority in interest of the General Common Elements, except in the event of an emergency.

The limitations set forth above shall not apply to any expenditures made by the Association for maintenance and repair of the Common elements or for repairs in the event of damage, destruction or condemnation as provided herein.

23. Insurance.

a. The Association through its Board of Directors and/or the Managing Agent shall obtain and maintain at all times, to the extent obtainable, insurance policies at no more than standard premium rates approved by the Colorado Insurance Commissioner, and written with companies licensed to do business in Colorado and having a Best's Insurance Report rating of A-XZ or better (or, if such rating system is superceded in general use, then of equal or better quality, in accordance with the superceding system) covering the risks set forth below. The Board of Directors or Managing Agent shall not obtain any policy where:

(i) under the terms of the insurance company's charter, By-Laws or policy, contributions or assessments may be charged by the insurance company against the Association, any Owner or other policy holder; or

(ii) by the terms of the carrier's charter, By-Laws or policy, loss payments are contingent upon action by the insurance company's Board of Directors, policyholders or members;

(iii) the policy permits subrogation by the insurance company against any Owner for other than willful or intentional acts on the part of such Owner; or

(iv) the policy includes any limiting clauses (other than the standard insurance conditions) which could prevent the Association, Owners and their Mortgagees from being covered (in accordance with the terms of this Declaration) with respect to the following:

b. Fire insurance with extended coverage and all risk endorsements, which endorsements shall include endorsements for vandalism, malicious mischief, and such other coverages as are usual in Condominiums of this type, size and location at the time, in the opinion of the Board's insurance advisor, with a minimum endorsed coverage of \$500,000.00 per accident per location. Said Casualty insurance shall insure the Property and any other property, the nature of which is a Common Element (including all of the Units and the fixtures therein initially installed or conveyed but not including furniture, furnishings or other personal property supplied by or installed by Owners) together with all service equipment contained therein in an amount equal to the full replacement value, less land, without deduction for depreciation. All policies shall contain a standard non-contributory mortgage clause in favor

of each First Mortgagee of a Unit, which must provide, however, that the loss, if any, thereunder, shall be payable to the Association for the use and benefit of First Mortgagees as their respective interests may appear for application of such loss proceeds in accordance with the applicable provisions of this Declaration.

c. If the Complex is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards and the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, or successor Act, a "blanket" policy of flood insurance on the Property in at least the lesser of the maximum amount of insurance available under the Act or the aggregate of the unpaid principal balances of the First Mortgages on the Units comprising the Complex.

d. Public liability and property damage insurance in such limits as the Board or Managing Agent may from time to time determine, but in no event less than \$500,000.00 per injury, per person, per occurrence and umbrella liability limits of \$1,000,000.00 per occurrence, covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of motor vehicles on behalf of the Association, the activities in connection with the ownership, operation, maintenance and other use of the Complex. Said policy shall also contain a "severability of interest endorsement".

e. Workmen's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amount and in the form now or hereafter required by law.

f. The Association shall be responsible for the purchase, in an amount not less than one hundred fifty percent (150%) of the Association's estimated annual operating expense and reserves, a fidelity bond or insurance coverage against dishonesty of employees, destruction or disappearance of money or securities and forgery. Said policy shall also contain endorsements thereto covering any persons who serve the Association without compensation.

g. The Association may obtain insurance against such other risks of a similar or dissimilar nature, as it shall deem appropriate with respect to the Complex, including plate or other glass insurance and insurance covering any personal property of the Association located thereon.

(i) All policies of insurance shall, to the extent reasonably obtainable, contain waivers or subrogation and waiver of any defense based on invalidity arising from any acts of any Owner and shall provide that such policies may not be cancelled or modified without at least twenty (20) days prior written notice to all of the insureds, including First Mortgages; Certificates of insurance coverage or duplicate originals of all policies and renewals thereof, together with proof of payments or premiums, shall be made available, on request, to all First Mortgagees at least ten

(10) days prior to expiration of the then current policies. The insurance shall be carried in blanket form naming the Association as the insured, as attorney-in-fact for all of the Owners and their Mortgagees.

(ii) Prior to obtaining or renewing any policy of fire insurance, the Board or Managing Agent shall obtain an insurance appraisal from a reasonably qualified person as to the full replacement value of the Complex without deduction for depreciation, for the purpose of determining the amount of the insurance to be effected pursuant to the provision of this insurance paragraph. Determination of full replacement value shall be made annually by a person reasonably knowledgeable as to replacement costs, and, upon its written request, each First Mortgagee shall be furnished with a copy thereof. Such amounts of insurance shall be contemporized annually in accordance with their current full replacement values so determined.

(iii) Owners may carry other insurance for their benefit and at their expense, provided that the liability of the Board shall not be affected or diminished by reason of any such additional insurance carried by any Owner.

(iv) Insurance coverage on furnishings, including contents and decor, interior wall, ceiling and floor surfacing, carpet, draperies, appliances and other items of personal property belonging to an Owner within each Condominium Unit and such Owner's individual public liability coverage shall be the sole and direct responsibility of the Owner thereof, and the Board of Directors, the Association and/or the Managing Agent shall have no responsibility therefor.

(v) All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only with respect to the interest of any particular Owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including non-payment of the insurance premium applicable to that Owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under any such policy, as to the interests of all other insured Owners not guilty of any such act or omission, shall remain in full force and effect.

(vi) Declarant shall be solely responsible for payment of builders risk insurance, if any, during the construction of improvements upon the Additional Property.

24. Lien for Non-Payment of Common Expenses. All sums including fines, properly and legally assessed by the Association but unpaid for the share of Common Expenses chargeable to any Unit shall constitute a lien on such Unit superior (prior) to all other liens and encumbrances, excepting only:

a. Tax and special assessment liens against the Unit in favor of any governmental assessing unit, which lien has accrued prior to the accrual of the lien hereunder, and

b. All sums unpaid pursuant to a First Mortgage of record, including all unpaid or advanced obligatory sums as may be provided by such encumbrance.

c. All obligations to Seller secured by a mortgage on the Property or the Additional Property.

If any assessment shall remain unpaid more than thirty days after the due date thereof, the Board of Directors of Managing Agent may impose a penalty on such defaulting Owner in an amount equal to 5% of such assessment. Likewise, a penalty equal to 5% of the unpaid assessment together with accrued penalties may be imposed on the first day of each calendar month thereafter so long as such assessment shall be unpaid.

To evidence such lien, the Board of Directors or Managing Agent shall prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Unit and a description of the Unit. Such a notice shall be signed by the President or other officer of the Association or by the Managing Agent and may be recorded in the office of the San Miguel County Clerk and Recorder. Such lien for the Common Expenses shall attach from the due date of the payment of the assessment. Such lien may be enforced by foreclosure of the defaulting Owner's Unit by the Association in like manner as a mortgage on real property, upon the recording of a notice or claim thereof. In any such foreclosure the Owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all attorney's fees. In addition to all other costs, charges and expenses required to be paid by an Owner, an Owner shall pay to the Association the sum of \$50.00 plus attorney's fees, if any, if it was necessary for the Association to record a notice of its lien for Common Expenses. The Owner shall also be required to pay to the Association the regular periodic assessment for the Condominium Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

Any Mortgagee holding a lien on a Condominium Unit may pay, but shall not by this Declaration be required to pay, any unpaid Common Expenses with respect to such Condominium Unit. Upon any such payment, such Mortgagee shall have a lien against such Unit for the amounts paid, of the same rank as the lien of its Mortgage, provided that any First Mortgagee who acquires a Condominium Unit by foreclosure or by a deed in lieu thereof, shall acquire title to such fee free and clear of any lien for unpaid Common Expenses arising after the date upon which such First Mortgagee receives conveyance of the Condominium Unit.

The Association shall, upon written request, report to the First Mortgagee of a Condominium Unit, any assessments remaining unpaid for longer than a sixty day period after the same are due as well as any other default of an Owner which is not cured within sixty days.

Declarant states in accordance with the requirements of the Colorado Condominium Ownership act, as amended, that it is possible that liens in addition to mechanic's liens, assessment liens and tax liens, may be asserted against the Property's Common Elements, including liens of purchase money mortgages against the property, for which payment is not made.

25. Owners' Obligations for Payment of Assessments. The amount of the Common Expenses assessed against each Unit shall be the personal and individual debt of the Owner

thereof at the time the assessment is made. Suit to recover a money judgment for unpaid common Expenses, and costs of suit and attorney's fees shall be maintainable without foreclosing or waiving the lien hereunder securing same. No Owner shall be exempted from liability for contribution toward the Common Expenses by abandonment of her or his Unit.

26. Liability for Common Expenses Upon Transfer of Unit is Joint. Upon payment of a reasonable fee not to exceed Twenty Five Dollars, and within ten days following receipt of a request in writing from any Owner or any First Mortgagee or prospective First Mortgagee of a Unit, the Association, by its Managing Agent or Board of Directors, shall issue a written statement setting forth the amount of the unpaid Common Expenses, if any, with respect to the subject Condominium Unit, the amount of the current periodic assessment and the date that such assessment becomes due and any credit for advance payments for prepaid items, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such statement of indebtedness shall be furnished by the Association within fifteen days from receipt of such request by the Association, then the grantee or First Mortgagee of a Condominium Unit who shall have made such unfulfilled request shall not be liable for, nor shall the Condominium Unit conveyed by and subject to, any lien for any unpaid assessments accruing prior to the date that an answer to such request was due.

The Grantee of a Condominium Unit, except a First Mortgagee who acquires it by foreclosure or deed in lieu of foreclosure, shall be jointly and severally liable with the grantor for all unpaid assessments against the Condominium Unit for its proportionate share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor any amount paid by the grantee therefor.

27. Mortgages - Priority. Any Owner shall have the right from time to time, to mortgage or encumber his or her Condominium Unit by deed of trust, Mortgage or other security instrument. An Owner may give junior Mortgages (junior to a First Mortgage) on her or his condominium Unit on the following conditions: (1) That any such junior Mortgage shall always be subordinate to all the terms, conditions, covenants, restrictions, uses, limitations, obligations, liens for common expenses, and other obligations created by this Declaration, the Articles of Incorporation, By-Laws, rules and regulations of the Association; and (2) That any junior Mortgagee shall be deemed to have released, for the purpose of restoration of any improvements upon the mortgaged premises, all of its lien, right, title and/or interest in and to the proceeds under any and all insurance policies on any Condominium Unit, placed upon the mortgaged premises by the Association. If a release of proceeds by any junior Mortgagee shall be required, such release shall be furnished forthwith by such junior Mortgagee upon written request of the Managing Agent or the Association and if not promptly furnished, may be executed by the Association as attorney-in-fact for such junior Mortgagee.

28. Reservation to Enlarge and Supplement the Complex.

a. Declarant, for itself, its successors and assigns, including but not limited to Seller, expressly reserves the right, but does not have the obligation, to enlarge this condominium Complex by submitting at one time, or at various times, prior to January 1, 2005 the Additional Property or parts thereof which abuts and adjoins

the Property at some point, Units and other improvements (which, in the opinion of Declarant are compatible with existing improvements within the Complex) to condominium ownership as part of the Complex. Such addition(s) to this condominium Complex shall be expressed in and by duly executed, sequentially numbered Supplements to this Declaration and by Map Supplements. Such Supplements shall provide for cross easements for use, if necessary.

b. In form and substance, each Supplement to this Declaration shall provide for division of the specified additional real property and improvements into condominium Units similar in form to the division made of the Property and improvements by this Declaration. Each Unit shall be separately designated, and each Building shall be identified by symbol or designation dissimilar to any other Building in the Complex. The undivided interest in and to General Common Elements appurtenant to each such Unit shall not be a part of the condominium Units described and initially created by this Declaration and the (initial) Map.

c. Except as may be otherwise provided by such Supplement(s) to this Declaration, all of the provisions contained in this Declaration shall be applicable to such additional condominium Units subsequently submitted to this Complex. This right to construct additional condominium Units shall include the right to construct condominium Units for residential or commercial use, and adequate support facilities for such units.

d. As additional condominium Units are submitted to this Complex, and in order that the Common Expenses of the Complex be shared proportionately and equitably by the owners of the Condominium Units located within the Complex, the Common Expenses of the Complex shall be divided proportionately within the Association as follows:

Each Owner's undivided interest in the General Common Elements shall be expressed as a fraction, the numerator of which shall be the number of square feet within the Unit owned by the Owner and the denominator of which shall be the total number of square feet within all completed Condominium Units of the Complex. The aggregate of all of the percentage interests making upon the Complex shall be considered one hundred percent for voting purposes.

Thus, at all times during the continuing existence of the Complex, whether in its initial phase or as from time to time expanded, a Unit's share of beneficial ownership in the property held by the Association and the vote appurtenant to the given condominium Unit shall be equal to a fraction, the numerator of which shall be the square footage of the Unit in question, and the denominator of which is the total of all such Unit square footage for all Units submitted to condominium ownership by this Declaration and by Supplements hereto which have been filed for record in the office of the Clerk and Recorder, San Miguel County, Colorado. Percentage interests of Units within the Property are set forth in EXHIBIT C, attached hereto and by this reference incorporated herein. Percentage interests of the

Units within the Additional Property shall be set forth in supplements to this Declaration, submitted as set forth herein.

e. Declarant, its successors or assigns, shall pay all costs and expenses incident to the development and sale of Units by Declarant within the Additional Property.

29. General Reservations.

Recreational and Other Improvements. At the time of recording this Declaration no recreational facilities exist within the Complex. Declarant reserves the right to construct upon the Additional Property recreational and other improvements for the common use of all of the Owners in the Complex. Upon substantial completion thereof, title to such improvements shall be conveyed to the Association or to all Owners of Units in the Complex, and the maintenance relating thereto shall be a Common Expense of all the Owners of the Complex.

30. Restrictive Covenants and Obligations.

a. No Imperiling of Insurance. No Owner and no Owner's tenants or guests shall do anything or cause anything to be kept in or on the Complex which might reasonably result in an increase in the premiums for insurance on the Complex or which might reasonably cause cancellation of such insurance, without the prior written consent of the Association first having been obtained.

b. No Violation of Law. No Owner and no Owner's guest shall do anything or keep anything in or on the Complex which would be immoral, improper, offensive or in violation of any statute, rule ordinance, regulation, permit or other validly imposed requirement of any governmental body or authority having jurisdiction over the Complex.

c. No Noxious, Offensive, Hazardous or Annoying Activities. No noxious or offensive activity shall be carried on upon any part of the complex nor shall anything be done or placed on or in any part of the Complex which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. No activity shall be conducted on any part of the Complex and no improvement shall be made or constructed on any part of the Complex which would or might be unsafe or hazardous to any person or property. No sound shall be emitted on any part of the Complex which is unreasonably loud or annoying. No odor shall be emitted on any part of the Project which is noxious or offensive to others. No light shall be emitted from any part of the Project which is unreasonably bright or causes unreasonable glare.

d. No Unsightliness. No unsightliness shall be permitted on or in any part of the Complex. Without limiting the generality of the foregoing, nothing shall be hung or placed upon any of the General Common Elements, including areas which are Limited Common Elements, and nothing shall be placed on or in windows or doors of Units which would or might be unsightly. The judgment of the Board shall be final in determining what is or is not unsightly. Objects once determined to be or not to be unsightly may later be reconsidered by

the Board provided that at least a year has passed since the Board's previous consideration of the same matter.

e. Restriction on Animals. No animals, livestock, reptiles or birds shall be kept in or on any part of the Complex, except that domesticated dogs, cats or birds may be kept in a Unit in compliance with all applicable State and County animal laws, regulations and/or ordinances and in compliance with all applicable rules and regulations promulgated by the Association. An Owner shall be responsible for any damage caused by his or her animal(s). No animals shall be allowed to: (1) remain tied or chained to any part of the Complex so as to comprise a problem, annoyance or nuisance and any such animal(s) so tied or chained may be removed by the Association or its agent(s); (2) be any place in the Complex other than within its Owner's Unit, unless such animal(s) is on a leash or otherwise under the immediate control of its Owner or its agent; (3) excrete on or in any common part of the Complex not specifically designated by sign as being available for such purpose, or (4) bark or make other noises which are an annoyance to others in the Complex.

f. Restriction on Signs. During the construction and sales phase of development of the Complex, Declarant and Declarant's agents may erect and maintain such signage as they may deem appropriate and reasonable. Thereafter no signs or advertising devised of any nature shall be erected or maintained on any part of the Complex without the prior written consent of the Association. The Association shall maintain at least one or more sign(s) of reasonable size location and dignified form to identify: the Complex; each Building; Complex recreational facilities, reserved parking; and such other informational signage as the Association's Board deems necessary or desirable, provided that all such signs shall be consistent with Complex architecture, style and coloring and with each other. All such signs shall be kept in good repair by the Association. No signs shall be erected or maintained which violate zoning or other applicable laws or ordinances. Signs may be allowed for the Units with commercial use, and such signs shall not be constructed and maintained which violate zoning or other applicable laws or ordinances. Signs may be allowed for the Units granted commercial use, and such signs shall be constructed and maintained, subject to the provisions hereof, by the operator of the commercial enterprise.

g. No Violation of Rules. No Owner and no Owner's guests family, tenants or agents shall violate the rules and regulations adopted from time to time by the Association, whether relating to the use of Condominium Units, the use of General or Limited Common Elements, or otherwise.

h. Owner-Caused Damages. If, due to the act or neglect of an Owner or such Owner's guests, agents, tenants or family, or pets, loss or damage shall be caused to any person or property (including the Complex or any Condominium Unit therein) such Owner shall be liable and responsible for the same, except to the extent that such damage or loss is covered by insurance

obtained by the Association and the carrier of the insurance has waived its rights of subrogation against such Owner. The amount of such damage shall constitute an assessment against such Owner, by legal proceedings or otherwise, and such amount shall be secured by a lien on the Unit of such Owner as provided herein for assessments and other charges.

i. Parking of Vehicles. Parking of any and all vehicles within the complex shall be subject to the rules and regulations of the Association. Notwithstanding any provision to the contrary contained herein, Declarant may dedicate parking spaces for use by the public within certain of the common areas located within the Complex, which dedication shall be effective for the term of the Declaration.

j. Restriction on Parking and Storage. No part of the Complex, including public streets and private streets or drives, or parking areas, unless specifically designated by the Association therefor, shall be used as a parking, storage, display, or accommodation area for any type of house trailer, camping trailer, boat trailer, hauling trailer, running gear, boat, or accessories thereto, truck or recreational vehicle, except as a temporary expedient for loading, delivery or emergency (provided, however, that this restriction shall not restrict trucks or other commercial vehicles within the Complex which are necessary for the construction or maintenance of the Complex).

k. Garage Not to be Used as Residence. Areas designated on the Map or Supplements thereto as garage or parking areas, of any, shall not be converted into living, sleeping, or residential space.

Determination of whether or not a particular activity or occurrence shall constitute a violation of this Paragraph 30 shall be made by the Board and shall be final.

31. Damage, Destruction, Obsolescence - Association as Attorney-in-Fact. All of the Owners by being Owners, irrevocably constitute and appoint the Association their attorney-in-fact, to act in their name, place and stead for the purpose of dealing with the Complex with respect to its destruction, repair or obsolescence as is hereafter provided. As attorney-in-fact, the Association, by its President and Secretary, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the improvement(s) as used in the succeeding subparagraphs (except where otherwise specified) means restoring the improvement(s) to substantially the same condition which existed prior to the damage, with each Unit and the Common Elements having substantially the same vertical and horizontal boundaries as before. Subject to the rights of all First Mortgagees in accordance with the terms of this Declaration, the proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration or replacement unless the Owners agree not to rebuild in accordance with the provisions set forth hereinafter.

Assessments for Common Expenses shall not be abated during period of insurance adjustment, repair and reconstruction.

a. Casualty-Less Than 60% Damage. In the event of damage or destruction amounting to not more than sixty (60%) percent of the total replacement cost of the Property (not including land), due to fire or other casualty event, the insurance proceeds, if sufficient to reconstruct the improvement(s) shall be applied by the Association, as attorney-in-fact for the Owners, to such reconstruction and the improvement(s) shall be promptly repaired and reconstructed. The Association shall have full authority, right and power, as such attorney-in-fact, to cause the repair and restoration of the improvement(s).

b. Casualty-Less Than 60% Damage - Insufficient Insurance. If the insurance proceeds are insufficient to repair and reconstruct the improvement(s) and if such damage is not more than sixty percent of the total replacement costs of the Property (not including land) such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of an assessment to be made against all of the Owners and their Condominium Units. Such deficiency assessment shall be a Common Expense, shall be made pro-rata according to each Condominium Unit's percentage interest in and to the General Common Elements and shall be due and payable within thirty days after written notice thereof is given. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of the improvements using all of the insurance proceeds and such assessment. This assessment shall be a debt of each Owner, be a lien against the Condominium Unit of each Owner and may be enforced and collected as is provided herein. In addition, the Association, as attorney-in-fact, shall have the absolute right and power to sell and convey the Condominium Unit of any Owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded in the records of the San Miguel County, Colorado, Clerk and Recorder, a notice that the Condominium Unit of the delinquent owner shall be sold by the Association, as attorney-in-fact for such owner. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, and the following order:

(i) For payment of all sums owing under or pursuant to any First Mortgage against such Condominium Unit.

(ii) For payment of taxes and special assessment liens in favor of any proper assessing entity against such Condominium Unit.

(iii) For payment of unpaid Common Expenses to the extent that they are assessed against such Condominium Unit.

(iv) For payment of junior Mortgages and encumbrances in the order of and to the extent of

their lien priority against such Condominium Unit, and

(v) The balance remaining, if any, shall be paid to the Unit Owner.

c. Casualty - More than 60% Damage - Sale. If more than sixty percent of the total replacement costs of the Property, not including land, is destroyed or damaged, and if the Owners of 75% or more of the General Common Elements do not voluntarily, within one hundred days thereafter, make provisions for reconstruction, which plan must have the unanimous approval or consent of 75% or more of the First Mortgagees (based upon one vote for each First Mortgage owned) the Association shall forthwith record in the records of the San Miguel County Clerk and Recorder, a notice setting forth such fact or facts, and upon recordation of such notice, the Complex shall be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in the Declaration, the Map, the Articles and By-Laws. The insurance settlement proceeds shall be collected by the Association according to each Owner's interest (as such interests appear of record in the office of Recorder), and such divided proceeds shall be paid into separate fiduciary accounts, each such account representing one Condominium Unit. Each such account shall be in the name of the association as fiduciary hereunder, and shall be further identified by the Unit's designation and the name of its Owner. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds derived from the sale of the Property. Such apportionment shall be based upon each Owner's percentage interest in and to the General Common Elements. The total funds of each account shall be applied and disbursed, without contribution from one account to another, by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraphs (b) (i) through (v) of this Paragraph.

d. Casualty - More than 60% Damage - Reconstruction. If more than sixty percent of the total replacement costs of the Property (not including land) is destroyed or damaged, and if the Owners of 75% or more of the General Common Elements adopt a plan for reconstruction, which plan has the approval of 75% of the First Mortgagees (based upon one vote for each First Mortgage owned), then all of the Owners shall be bound by the terms and other provisions of such plan. The Association shall have the right to use, in accordance with such plan, all proceeds of insurance of such destruction or damages, as well as the proceeds of an assessment, if necessary to be made against all of the Owners and their Units. Any assessment made in connection with such plan shall be a Common Expense, shall be made pro-rata according to each Owner's percentage interest in and to the General Common Elements and shall be due and payable as provided by the terms of such plan but not sooner than thirty days after written notice thereof is given. The Association shall have full authority, right and power, as attorney-in-fact for each and all of the Owners, to cause the repair or restoration of the improvements

using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the assessment. The assessment herein provided shall be a debt of each Owner, a lien against such Owner's Condominium Unit and may be enforced and collected as is provided herein. In addition, the Association, as attorney-in-fact for the Owner, shall have the absolute right and power to sell and convey the Condominium Unit of any Owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded in the records of the San Miguel County Clerk and Recorder a notice that the Condominium Unit of the delinquent owner shall be sold by the Association. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association as attorney-in-fact for the Owner, for the same purposes and in the same order as is provided in subparagraphs (b) (i) through (v) of this Paragraph.

e. Obsolescence - Renovation. The Owners of 80% or more of the General Common Elements may agree that the Property has become obsolete and may adopt a plan for its renovation and/or reconstruction, provided that such plan shall have the approval of 80% of the First Mortgagees of record at the time of the adoption of such plan (based upon one vote for each First Mortgage owned). If such a plan for renovation or reconstruction is adopted, notice of such plan shall be payable by all of the Owners as Common Expenses; provided however, that an Owner not voting in favor of such a plan for renovation or reconstruction may give written notice to the Association within thirty days after notice of the adoption of such plan is recorded that such Unit shall be purchased by the Association for the fair market value thereof. The Association shall then have fifteen days within which to cancel such plan. If such plan is not cancelled within such time period, then the Condominium Unit shall be purchased by the Association according to the following procedures:

(i) If such Owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within thirty days following expiration of the fifteen day cancellation deadline:

(ii) If the parties are unable to agree as to value, the date when either party notified the other that he or it is unable to agree with the other shall be the "Commencement Date" from which all periods of time hereinafter mentioned in this subparagraph shall be measured. Within ten days following the Commencement Date, each party shall nominate in writing (and give notice of such nomination to the other party) an independent appraiser. 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 independent appraiser. If the two appraisers designated by the parties, or selected as above in the event of the default of one party, are unable to agree, they shall appoint a third independent appraiser. The decision of the majority of the appraisers as to the fair market value, shall be final and binding. The expenses and fees of such appraisers

shall be borne equally by the Association and the Owner. The sale shall be consummated within fifteen days thereafter, and the Association, as attorney-in-fact, shall disburse such proceeds as is provided in subparagraphs (b) (i) through (v) of this Paragraph.

f. Obsolescence - Sale. The Owners of 80% or more of the General Common Elements may agree that the Complex is obsolete and that the same should be sold. Such plan (agreement) must have the approval of 80% of the First Mortgagees (based upon one vote for each First Mortgage owned) before being implemented. In such instance, the Association shall forthwith record in the records of the San Miguel County, Colorado, Clerk and Recorder and shall send to each owner a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President or Secretary, the entire complex may be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in the Declaration, the Map, the Articles and the By-Laws. The sales proceeds less costs of sale shall be apportioned between the Owners on the basis of each Condominium Unit's percentage interest in and to the General Common Elements, and such apportioned proceeds shall be paid into separate fiduciary accounts, each such account representing one Condominium Unit. Each such account shall be in the name of the Association as fiduciary, and shall be further identified by the Unit designation and the name of the Owner. From each separate account the Association, as attorney-in-fact shall apply and disburse the total amount (of each) of such accounts, without contribution from one account to another, for the same purposes and in the same order as is provided in subparagraphs (b) (i) through (v) of this Paragraph.

32. Condemnation - Eminent Domain.

a. Consequences of Condemnation. If at any time or times during the continuance of condominium ownership pursuant to this Declaration, all of any part of the Complex shall be taken or condemned by any entity exercising the right of eminent domain or sold or otherwise disposed of in lieu of or in advance thereof, the provisions of this Paragraph 32 shall apply.

b. Proceeds. All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award", shall be payable to the Association.

c. Complete Taking. In the event that the entire Complex is taken or condemned or sold or otherwise disposed of in lieu of or in avoidance thereof, condominium ownership pursuant to this Declaration shall terminate.

The Condemnation Award shall be apportioned among the Owners in proportion to their respective undivided interests in the General Common Elements. However, if a standard different from the value of the Complex as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree, or otherwise, then in determining such share, the same standard shall be employed to the extent it is relevant and applicable.

On the basis of the principle set forth in the last preceding paragraph, the Association shall, as soon as practicable, determine the share of the Condemnation Award to which each Owner is entitled. Such shares shall be paid into separate fiduciary accounts and disbursed as soon as practicable in the same manner provided in Paragraph 31 (b) of this Restated Declaration.

d. Partial Taking. In the event that less than the entire Complex is taken or condemned or sold or otherwise disposed of in lieu of or in avoidance thereof, the Owners shall be entitled to share in the Condemnation Award to be determined in the following manner.

(i) As soon as practicable the Association shall, reasonably and in good faith, allocate the Condemnation Award between compensation, severance damages, or other proceeds. The amounts so allocated to the taking of, or injury to the General Common Elements shall be apportioned among the Owners in proportion to their respective undivided interests in the General Common Elements;

(ii) The total amount allocated to severance damages shall be apportioned to those Units which were not taken or condemned;

(iii) The respective amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner had made within his own Unit shall be apportioned to the particular Unit involved; and

(iv) the amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If an allocation of the Condemnation Award is already established in negotiation, judicial decree or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be made by checks payable jointly to the respective Owners and their respective Mortgagees of record.

e. Reorganization. In the event that a partial taking results in the taking of a complete unit, the Owner thereof shall automatically cease to be a member of the Association, such Owner's interest in the General Common Elements shall thereupon terminate, and the Association, as attorney-in-fact for such Owner, may take whatever action is necessary and execute such documents as are necessary to reflect such termination. Thereafter the Association shall reallocate the ownership, voting rights and assessment ratio determined in accordance with this Declaration at its inception and shall submit such reallocation to the Owners of remaining Units for amendment of this Declaration as provided in Paragraph 33(b) hereof.

33. Reservation to Sever Portion of Common Element.

a. Declarant, for itself, its successors and assigns, hereby reserves the right, from time to time, to use any or all of the common elements described in EXHIBIT D, being vacant land, as

security for a construction loan for the construction of improvements in the complex. By this reservation Declarant reserves the right to secure said construction loan or construction loans with a first lien mortgage or deed of trust, or subordinate mortgage or deed of trust, on the property described in EXHIBIT C. If Declarant, its successors or its assigns, is in default according to the terms and conditions of the mortgage or deed of trust, and the security instrument allows or calls for the remedy of foreclosure of the property securing the mortgage or deed of trust, then by this reservation Declarant, for itself and its successors or assigns, reserves the right of the holder or beneficiary of the security instrument to foreclosure under the applicable laws of the State of Colorado and, if permitted by local ordinance, rules and/or regulations, sever the property described in the security instrument, and all rights appurtenant thereto, including but not limited to development rights, if any, from the existing complex. Nothing to the contrary notwithstanding, Declarant, its successors and assigns, shall not use any property as security which has an improvement constructed upon it. Nothing to the contrary notwithstanding, no mortgage, deed of trust or other security instrument authorized under this paragraph 33 shall have any force or effect if it purports to encumber any part of a Unit, General Common Element or Limited Common Element which is outside of the limits of the real property described in EXHIBIT C hereto. Any and all interests in mortgages, deeds of trust or other security instruments are taken subject to this paragraph. In addition, and not by way of limitation, Declarant, to successors and assigns, shall indemnify all Owners from all costs, fees (including attorney's fees), losses, damages and liability that an Owner may incur as a result of foreclosure of the EXHIBIT C property, except that the indemnification shall not include loss of value from the severance of EXHIBIT C Property from the Complex.

b. Declarant, for itself, its successors and assigns, hereby reserves the right, from time to time, to convey any or all of the common elements described in EXHIBIT C, to any person or entity, including itself, free and clear of the provisions of this Declaration. By this reservation Declarant, for itself and its successors or assigns, reserves the right of the grantee if permitted by local ordinance, rules and/or regulations, to sever the property conveyed, and all rights appurtenant thereto, including but not limited to development rights, if any, from the existing complex. Anything to the contrary notwithstanding, Declarant, its successors and assigns, shall not convey any property as security which as an improvement constructed upon it. Anything to the contrary notwithstanding, deed authorized under this paragraph 33 (a) shall have any force or effect if it purports to convey any part of a Unit, General Common Element or Limited Common Element which is outside of the limits of the real property described in EXHIBIT C hereto. Any and all interests in deeds, mortgages, deeds of trust or other security instruments are taken subject to this paragraph.

3⁴. Miscellaneous.

a. Duration of Declaration. All of the provisions of this Declaration shall continue and remain in full force and effect until condominium ownership of the Complex and the Declaration are terminated, revoked, or amended as herein provided.

b. Amendment and Termination. The Declaration may be amended or additional provisions may be added or the Declaration and condominium ownership of the Complex may be terminated or revoked, by the recording of a written instrument or instruments specifying the amendment or addition or the fact of termination and revocation, executed by the Owners, as shown by the records in the office of the Clerk and Recorder of San Miguel County, Colorado, of at least 75% of all First Mortgagees (based upon one vote for each First Mortgage owned) provided however, that in no event shall the undivided interest of an Owner be increased or decreased without the unanimous consent of each affected Owner and First Mortgagee. The consent(s) of any junior Mortgagees shall not be required under the provisions of this paragraph.

Notwithstanding the foregoing, Declarant and its assigns, including but not limited to Seller shall have the right to supplement the Complex, the Declaration and the Map as contemplated in Paragraph 28 hereof. Declarant and Seller shall and do specifically retain the right to supplement and/or modify the Map, Declaration, Articles and By-Laws so as to correct mistakes, conform descriptions and/or drawings to actual Complex conditions, to adapt or conform such documents and the Complex to changes or existing condominium statutes of the State of Colorado and other changes or existing statutes, ordinances, rules and regulations which may impinge upon the Complex or upon availability of First Mortgage loans on Condominium Units in the Complex. Such rights of Declarant and Seller to supplement, alter and amend shall terminate twenty (20) years after the effective date of the Declaration.

c. Effect of Provision of Declaration. Each provision of the Declaration, and an agreement, promise, covenant and undertaking to comply with each provision of this Declaration, and any necessary exception or reservation or grant of title, estate, right or interest to effectuate any provision of this Declaration shall:

(i) By virtue of acceptance of any right, title or interest in the Complex or in any Unit by an Owner, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner, and as a personal covenant, shall be binding on such Owner and such Owner's heirs, personal representatives, successors and assigns and shall be deemed a personal covenant to, with and for the benefit of the Covenant and each Unit; and

(ii) Be deemed a real covenant by Declarant, for itself, its successors and assigns, and also an equitable servitude, running in each case as a burden with and upon the title to the Complex and each Unit and, as a real covenant; and also as an equitable servitude, shall be deemed a covenant

and servitude for the benefit of the Covenant and each Unit; and

(iii) Be deemed a covenant, obligation and restriction secured by a lien in favor of the Association, burdening and encumbering the title to the Complex and each Unit in favor of the Association.

d. Protection of First Mortgages, Other Encumbrances. No violation of, breach of, or failure to comply with any provision of this Declaration and no action to enforce such provision shall defeat, or impair the lien of any First Mortgage or other Mortgage on any Unit taken in good faith for value and duly recorded in the office of the Clerk and Recorder of San Miguel County, Colorado, prior to the time of recording in said office of an instrument describing the Condominium Unit and listing the name or names of the Owner or Owners of the Condominium Unit and giving notice of such violation, breach or failure to comply; nor shall such violation, breach, failure to comply or action to enforce affect, defeat, or impair any such First Mortgage, or other Mortgage or the title or interest acquired by any purchaser upon foreclosure of any such First Mortgage or other Mortgage or result in any liability, personal or otherwise, of any such holder or purchaser. Any such purchaser at foreclosure shall, however, take subject to this Declaration and all Maps and other documents defining and/or regulating the Complex. Violations or breaches of, or failure to comply with, any provisions of the Declaration which occurred prior to the vesting of fee simple title in such purchaser shall not be deemed breaches or violations hereof or failures to comply herewith, with respect to such purchaser, the personal representatives, successors or assigns of such purchaser.

e. Failure to Insist on Strict Performance No Waiver. The failure of the Association or Declarant, as applicable, to insist, in any one or more instances, upon the strict performances of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment, for the future, of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt and acceptance of the Board of Directors or Manager of any assessment from an Owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Board of Directors or Manager of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board of Directors.

f. Limitation on Board of Directors' Liability. The Board of Directors shall not be liable for any failure of any service to be obtained and paid for by the Board of Directors hereunder, or for injury or damage to person or property caused by the elements or by another Owner or person, or resulting from electricity, mud, ice, water or rain which may leak, flow, or fall from outside or from any parts of the Complex, or from any of its

pipes, drains, conduits, ducts, roofing, appliances, equipment, or from any other place, unless caused by gross negligence of the Board of Directors. No diminution or abatement of Common Expense assessments shall be claimed or allowed for inconveniences or discomfort arising from the making of repairs or improvements to the General Common Elements or from any action taken to comply with any law, ordinance or order of a governmental authority.

g. Indemnification of Board of Directors Members.

Each member of the Board of Directors shall be indemnified by the Owners against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved, by reason of his being or having been a member of the Board of Directors, or any settlement thereof, whether or not he as a member of the Board of Directors is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Board of Directors approves such settlement as being for the best interests of the Etta Place Too Condominium Association, Inc.

h. Supplemental to Law. The provisions of this Declaration shall be in addition to and supplemental to the Condominium Ownership Act of the State of Colorado, as amended, insofar as it applies to this Complex, and to all other applicable provisions of law. Colorado law applies to all matters involving this Complex.

i. Numbers and Genders. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural includes the singular, and the use of any gender shall include all genders.

j. Registration by Owner of Mailing Address.

Each Owner shall register his or her mailing address with the Association, and except for monthly statements and other routine notices, which shall be personally delivered or sent by regular mail, all other notices or demands intended to be served upon an Owner shall be delivered personally or sent by either registered or certified U. S. 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 of Directors of the Association or upon the Association shall be sent by certified mail, postage prepaid to Etta Place Too Condominium Association, Inc., P.O. Box 32, Telluride, Colorado 81435, registered agent, until such address is changed by a notice of address given to the Owners.

k. Successors and Assigns.

This Declaration shall be binding upon and shall inure to the benefit of the Declarant, the Association and each Owner, Mortgagee and all others dealing with or having an interest in the Complex or any part thereof and the heirs, personal representatives, successors and assigns of each of them.

1. Severability. Invalidity or enforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

m. Captions. The captions and headings in this Declaration are for convenience only and shall not be considered in construing any provision of this Declaration.

n. No Waiver. Failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration.

IN WITNESS WHEREOF, Declarant(s) has (have) duly executed this Declaration this 30th day of July, 1985.

DECLARANT

ETTA PLACE TOO ASSOCIATES TRUST, a Massachusetts business trust.

BY:

Peter A. Riccardelli, as attorney in fact for
W. Albert Ellis, Trustee
W. ALBERT ELLIS, Trustee

Peter A. Riccardelli, as attorney in fact for
George Macomber, Trustee
GEORGE MACOMBER, Trustee

EXHBIT "A"

Lot G, Backman Village Subdivision Amended Plat No. 1, according to the plat recorded in the office of the Clerk and Recorder in Plat Book 1 at Page 328, Reception No. 220160, dated March 10, 1981, San Miguel County, Colorado records.

EXHIBIT "B"

Lot H, Backman Village Subdivision Amended Plat No. 1, according to the plat recorded in the office of the Clerk and Recorder in Plat Book 1 at Page 328, under Reception No. 220160, dated March 10, 1981, San Miguel County, Colorado records.

EXHIBIT "C"

Unit No.	Square Footage	Percentage Interest
		In The General Common Elements
1	656.83 sq. ft.	4%
2	962.25 sq. ft.	6%
3	908.84 sq. ft.	6%
4	599.57 sq. ft.	4%
5	942.09 sq. ft.	6%
6	951.84 sq. ft.	6%
7	1,297.21 sq. ft.	8%
8	1,306.84 sq. ft.	8%
9	950.96 sq. ft.	6%
10	944.86 sq. ft.	6%
11	614.97 sq. ft.	4%
12	1,539.57 sq. ft.	9%
13	1,503.82 sq. ft.	9%
14	1,522.67 sq. ft.	9%
15	1,448.45 sq. ft.	9%
<hr/>		<hr/>
TOTAL	16,150.77 sq. ft.	100%

EXHIBIT "D"

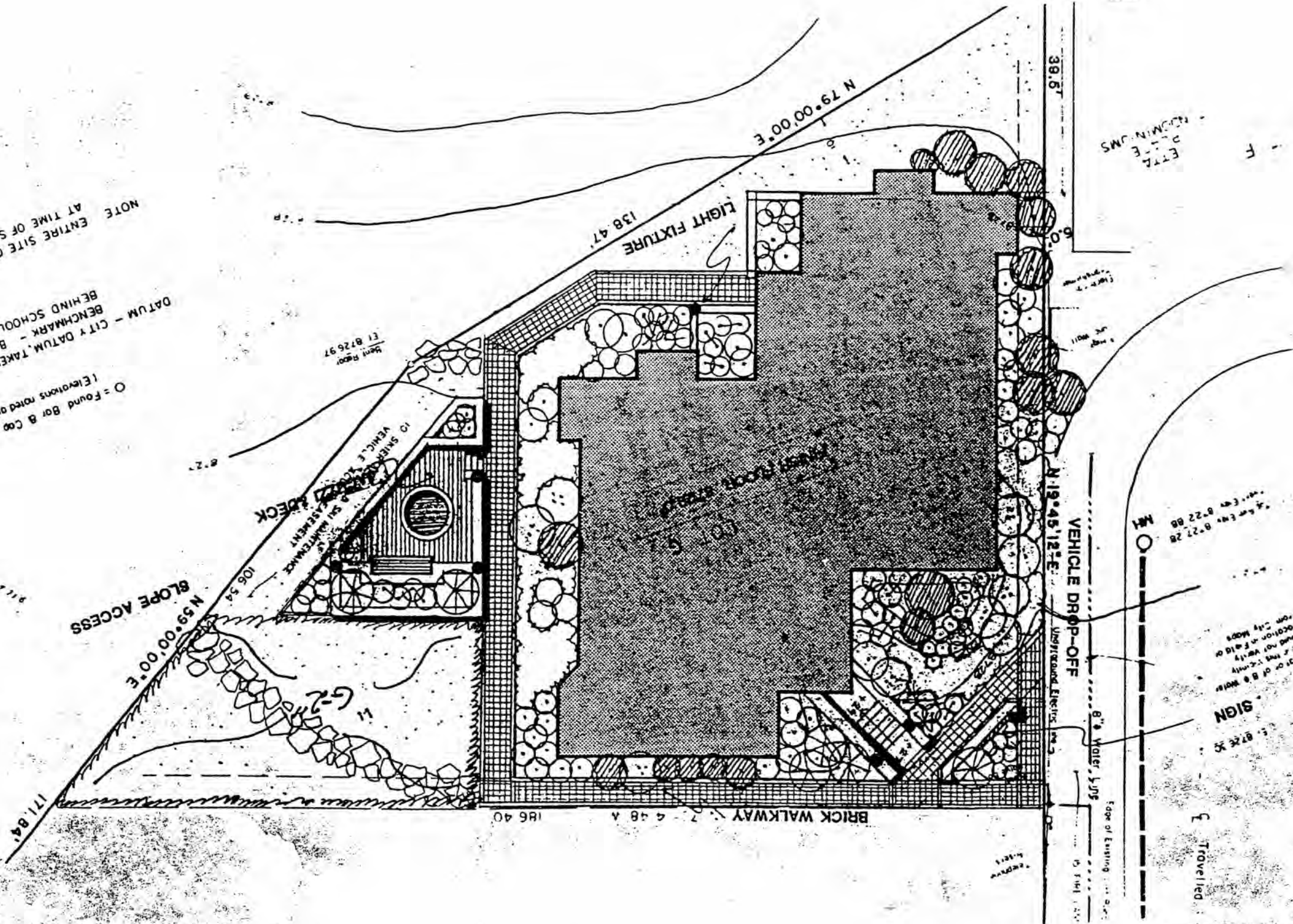
The appropriate legal description of the real estate (a part of the real estate described in Exhibit "A") described as "G-2" on the site plan attached hereto.

NOTE - ENTIRE SITE COVERED
AT TIME OF SURVEY

DATUM - CITY DATUM, TAKEN FROM
BENCHMARK - BRASS
BEHIND SCHOOL, ETC.

O = FOUND BOR & CO. L.S.
Elevations noted are at 1922

Exhibit D Continued



SIGN

Travelled