

DECLARATION OF GRANTS,
COVENANTS, CONDITIONS AND RESTRICTIONS
ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP
OF

PACIFIC PLACE CONDOMINIUMS,
a Condominium Common Interest Community

TOWN OF TELLURIDE
COUNTY OF SAN MIGUEL
STATE OF COLORADO

Declarant:

Telluride Mountain Ventures I, LLC,
a Colorado limited liability company

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**DECLARATION OF GRANTS,
COVENANTS, CONDITIONS AND RESTRICTIONS**

Telluride Mountain Ventures I, LLC, a Colorado limited liability company (the "Declarant"), with an office at 126 West Colorado Ave., Suite 102-C, Telluride, Colorado 84135, as the owner of that certain real property located in the Town of Telluride, San Miguel County, State of Colorado, more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Land"), together with the Improvements thereon (as this term is defined below), hereby makes the following grants, submissions and declarations:

**ARTICLE I
STATEMENT OF INTENT AND PURPOSE**

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

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

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

**ARTICLE 2
DEFINITIONS**

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

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

2.2 Association means the Pacific Place Condominiums Owners' Association, Inc., a Colorado nonprofit corporation, its successors and assigns, of which all Owners of Units shall be Members (as defined below), and which Association shall be charged with the management and maintenance of the Project. The Association shall be governed by its Board of Directors (the "Board"), pursuant to the Corporation Act.

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

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

2.5 Commercial Unit means a condominium Unit designated as a commercial condominium Unit on the Condominium Map, which designation shall include the singular and plural.

2.6 Common Elements means and refers to the General Common Elements and Limited Common Elements.

2.7 Common Expenses means and includes:

2.7.1 Expenses declared common expenses by provisions of this Declaration.

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

2.7.3 All sums lawfully assessed against the Units by the Association as common expenses.

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

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

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

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

2.11 Declarant means Telluride Mountain Ventures I, LLC, a Colorado limited liability company, its successors and assigns.

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

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

2.14 General Common Elements means and includes all of the following except (a) portions of the Condominium Property contained entirely within and servicing only one Unit, and/or (b) portions of the Condominium Property which are designated as Limited Common Elements under this Declaration or on the Condominium Map:

2.14.1 The Land described in the attached Exhibit "A";

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

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

2.14.4 All sidewalks, roads, driveways, yards, gardens, planters, all automobile parking areas, and decks/patios designated as General Common Elements;

2.14.5 Any installations consisting of equipment and materials making up any central utility and communication services (including all pipes, ducts, flues, wires, cable and conduit used in connection with such items, whether located in common areas or within Units), including such services as power, light, gas, hot and cold water, heating, refrigeration, central air conditioning, incinerating, and such central service support structures as are located within or without a Unit; the elevators, tanks, pumps, motors, fans, compressors and ducts;

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

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

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

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

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

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

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

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

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

2.22 Project means the Land and all Improvements thereon, together with all rights, easements, and appurtenances belonging thereto, submitted to condominium ownership by this Declaration and which may be subsequently submitted to condominium ownership under the terms of this Declaration or any supplemental declaration, as hereinafter provided.

2.23 Residential Unit means a condominium Unit designated as a residential condominium Unit on the Condominium Map, which designation shall include the singular and plural.

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

Any utility or communication facilities running through a Unit that serve more than one Unit, any structural component of the Improvements, including foundations, columns, girders, beams, or any other General Common Element or part thereof, located within the air space, shall not be included as part of a Unit.

ARTICLE 3

ESTABLISHMENT OF CONDOMINIUM OWNERSHIP

3.1 Units. Six (6) fee simple estates, each consisting of a separately designated Unit, (i) one (1) as Commercial Units, (ii) four (4) as Residential Units, and (iii) one (1) as a deed restricted employee Residential Unit, together with an undivided percentage interest in the General Common Elements being held by all of the Owners of the Units as tenants in common according to the percentage interest assigned to each Unit on Exhibit "B", and any Limited Common Elements designated and reserved to such Unit as set forth on the Condominium Map. Each Unit shall be identified on the Condominium Map by the number shown in Exhibit "B".

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

3.3 Subdivision of Units. Upon approval by the Board of Managers of the Association (the "Board"), a Unit may be subdivided into two or more Units, if the Owner of the Unit to be subdivided shall submit to the Board an application which shall comply with the provisions hereof.

3.3.1 In order to subdivide a Unit, the Owner of such Unit, as the applicant, must submit an application to the Board, which application shall be executed by such Owner and shall include:

(a) Evidence that the applicant of the proposed subdivision shall have complied with all building codes, fire codes, zoning codes, planned Unit development requirements, master plans, and other applicable ordinances or resolutions adopted and enforced by the local governing body and that the proposed subdivision does not violate the terms of any document evidencing a security interest encumbering the Unit;

(b) The resulting reallocation of allocated interests, if any;

(c) The proposed form for amendments to the Declaration, including the plats or maps, as may be necessary to show the Units which are created by the subdivision and their dimensions, and identifying numbers;

(d) A deposit against attorney fees and costs which the Association will incur in reviewing and effectuating the application, in an amount reasonably estimated by the executive board; and

(e) Such other information as may be reasonably requested by the Board.

3.3.2 Declarant reserves unto itself and the successor Owners of the Units the right, to be held by the Declarant and any other person at any time owning a Unit, to combine adjoining Units, divide, or partition such Unit or Units to create spaces either larger or smaller than such Unit or Units as shown on the Condominium Map for the purposes of either conveying or leasing. The exercise of such right shall not increase or decrease the percentage ownership in the Common Elements of, or the percentage of Common Expenses to be paid by, any condominium Owner not involved in such combination, division, or partition, and the exercise of such right shall be subject to the provisions of applicable law including condominium subdivision ordinances and regulations including the approvals required pursuant to the Condominium Laws.

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

ARTICLE 4 INSEPARABILITY OF AN UNIT

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

ARTICLE 5 CONDOMINIUM MAP

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

5.1.1 The name and a general schematic map of the entire Project;

5.1.2 The location and dimensions of all real estate not subject to development rights, or subject only to the development right to withdraw, and the location and dimensions of all existing Improvements within that real estate;

5.1.3 A legally sufficient description of any real estate subject to development rights, labeled to identify the rights applicable to each parcel;

5.1.4 The extent of any existing encroachments across any Project boundary;

5.1.5 To the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the Project;

5.1.6 A legally sufficient description of any real estate in which the Owners will own only an estate for years, labeled as "leasehold real estate";

5.1.7 The distance between noncontiguous parcels of real estate comprising the Project;

5.1.8 The approximate location and dimensions of the Common Elements, including porches, balconies, and patios, other than the Limited Common Elements described in Sections 6.2.3 and 6.2.5 below.

5.1.9 The location and dimensions of the vertical boundaries of each Unit and that Unit's identifying number;

5.1.10 Horizontal Unit boundaries, if any, with reference to all established data, and that Unit's identifying number;

5.1.11 Any Units in which the Declarant has reserved the right to create additional Units or Common Elements, identified appropriately; and

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

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

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

ARTICLE 6 DESCRIPTION OF UNIT

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

6.2 Unit Boundaries.

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

(a) Upper Horizontal Boundaries. The horizontal plane of the bottom surface of the unfinished joists, extended to an intersection with the vertical perimeter boundaries.

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

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

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

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

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

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

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

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

ARTICLE 7 TITLE AND OWNERSHIP

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

7.2 Transfer of General Common Elements. All Owners and the Association, covenant that, except as provided Article 20 hereof, they shall neither by act nor omission, seek to abandon, subdivide, encumber, sell or transfer the General Common Elements without the consent of: (i) the Owners representing an aggregate ownership interest of seventy-five percent (75%) or more of the General Common Elements; (ii) the First Mortgagees representing an aggregate of seventy-five percent (75%) of the then-outstanding balances of such Mortgages covering or affecting any or all Units; and (iii) during the Marketing Period, the consent of the Declarant. Any such action without the written consent of said Owners, First Mortgagees and, if applicable, the Declarant, shall be null and void. Notwithstanding the foregoing, nothing contained in this Section 7.3 shall be construed to limit or prohibit a proportionate adjustment in the percentage ownership in the General Common Elements in connection with the combination, division, or partition of any Unit pursuant to the right of combination, division, or partition of a Unit by the Owner or between Owners thereof for the purpose of sale, use, or improvement of such Unit.

ARTICLE 8 USE AND OCCUPANCY

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

8.2 Use and Occupancy. The Units in the Project shall be used and occupied solely as follows:

8.2.1 Commercial Units. Each Commercial Unit, or any portion thereof, may be used and occupied in accordance with and subject to the limitations established by this Declaration and applicable governmental rules, regulations and ordinances, and reasonable rules and regulations of the Association. The Commercial Units shall be further subject to the general use restrictions contained in Section 8.3 hereof.

8.2.2 Residential Units. Each Residential Unit (Units A, B, C, D and E), or any portion thereof, shall be used and occupied in accordance with the general use restrictions set forth in Section 8.3.

The Owners of Residential Units acknowledge that business and commercial activities will be conducted in one or more of the Commercial Units within the Project and that some annoyance and inconvenience is to be expected and must be tolerated. In addition, the Owners of the Commercial Units acknowledge that the Residential Units are to be used for residential purposes and that excessive noise, unsightly displays, unpleasant odors, and all other nuisances shall be avoided.

8.23 Commercial Units - Noise Restriction. Any restaurant or bar facility located within a Commercial Unit, including appurtenant Limited Common Elements, may utilize only such live or recorded background music as is customarily used in restaurants and shall conduct its business so as to not unduly inconvenience the Owners of the other Units.

8.24. Use of General Common Elements. Each Owner may use the General Common Elements in accordance with the purpose for which they are intended without hindering or encroaching upon the lawful rights of the other Owners. There shall be no obstruction of General Common Elements, nor shall anything be kept or stored on any part of the General Common Elements without the prior written consent of the Association, except as specifically provided herein. No restriction, impairment, or interference with any right of ingress or egress provided for in this Declaration shall be permitted at any time without the prior written consent of the Owner thereof. Nothing shall be altered on, constructed in, or removed from the General Common Elements except upon the prior written consent of the Association. JH

8.3 General Use Restrictions.

8.3.1 Except as may be permitted by the rules and regulations from time to time adopted and amended by the Association, no animals of any kind shall be raised, bred or kept in the Project.

8.3.2 Neither the General Common Elements nor any part or appurtenance of or to any Unit which is visible outside the Unit (i.e., doors) shall be altered in appearance or modified without consent of the Association. All exterior blinds in the windows of the Building shall be white. No unsightly object or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the Owner of any Unit or any resident or tenant thereof. Barbecue grills shall be permitted on the decks and patios of the Building, provided they do not constitute a nuisance pursuant to Section 8.3.3 below as determined by the Declarant during the Marketing Period or the Association after the Marketing Period.

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

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

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

8.3.6 Except for those Improvements caused to be erected or installed by Declarant, no exterior additions or alterations to or of the Improvements, nor changes in the fences, plantings, walls and other structures, shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, heights, materials, location and approximate cost of the same, shall have been submitted to and approved in writing by the Association and the Town Historical and Architectural Review Commission, so as to insure conformity and harmony of external design and relative location with existing structures comprising the Project. Upon completion of approved alterations or additions to the Improvements or completion of Owner build-out within a Unit, said Owner shall cause to be delivered to the Association a complete set of as-built plans.

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

8.4 On Site Parking. The automobile parking area for the Project is included within the General Common Elements managed by the Association. The Association shall, from time to time, establish the rules and regulations governing the operation and use of the automobile parking areas. Notwithstanding the foregoing, parking spaces designated L.C.E. Unit A, L.C.E. Unit B, and L.C.E. Unit C, as described on the Condominium Map, or as the same subsequently may be relocated, shall be deemed Limited Common Elements appurtenant to Units A, B, and C, respectively, for use in the manner adopted by the Association.

ARTICLE 9 EASEMENTS FOR ENCROACHMENTS

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

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

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

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

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

ARTICLE 10

RESERVATION FOR ACCESS - MAINTENANCE, REPAIR AND EMERGENCIES

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

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

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

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

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

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

ARTICLE 11

ASSESSMENTS AND TAXATION

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

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

ARTICLE 12

CONDOMINIUM OWNERS ASSOCIATION

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

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

12.3 Voting Rights. Members shall be entitled to one (1) vote for every Unit such member owns on all matters, with each vote weighed according to the percentage of ownership of the General Common Elements attributable to such Unit, as set forth in Exhibit "B" attached hereto.

12.3.1 If a Unit is owned by more than one Person, those Persons shall agree among themselves how the vote for that Unit's membership is to be cast. Individual co-owners may not cast fractional votes. A vote by a co-owner for the entire Unit's membership interest shall be deemed to be pursuant to a valid proxy (See Section 12.5), unless another co-owner of the same Unit objects at the time the vote is cast, in which case such membership's vote shall not be counted. In no event shall more than one (1) vote be cast with respect to any Unit.

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

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

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

- (a) make design review decisions;
- (b) make amendments, modifications, terminations, or extensions to this Declaration, including any plats or maps, and the Articles of Incorporation and Bylaws for the Association;
- (c) prepare annual budgets;
- (d) do any of the acts listed in Section 13.2 (Association Powers) hereof;
- (e) transfer the General Common Elements pursuant to Section 7.2 or Section 20.3 hereof; and
- (f) adopt a plan for reconstruction or sale pursuant to Article 20 hereof.

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

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

ARTICLE 13 PURPOSES AND POWERS OF ASSOCIATION

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

13.2 Association Powers. The Association shall be granted all powers necessary to govern, manage, maintain, repair, administer, and regulate the Project and to perform all of the duties required of it.

13.2.1 Notwithstanding the above, the Association shall not be empowered nor entitled to do the following without the consent of the First Mortgagees representing an aggregate of seventy-five (75%) of the principal balance then-outstanding on any first Mortgages covering Units, and, during the Marketing Period, the consent of the Declarant:

- (a) by act or omission, seek to abandon or terminate the condominium regime;
- (b) except as otherwise provided herein, partition or subdivide any Unit;
- (c) by act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements;
- (d) use hazard insurance proceeds for a loss to the Improvements for other than the repair, replacement, or reconstruction of such Improvements; or
- (e) change the pro rata interest or obligation of any Unit, and of the Owners thereof, for the purposes of: (i) levying assessments or charges hereunder or for the purpose of allocating a distribution of hazard insurance proceeds or condemnation awards hereunder; or (ii) determining the pro rata share of ownership of each Unit in the Common Elements.

13.2.2 In furtherance of the Association purposes, the Association (by action of its directors, unless otherwise noted in the Articles of Incorporation or in the Declaration) shall have full power to:

- (a) Adopt and amend bylaws and rules and regulations;

- (b) Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for Common Expenses from Owners;
- (c) Hire and terminate managing agents and other employees, agents, and independent contractors;
- (d) Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting the common interest community;
- (e) Make contracts and incur liabilities;
- (f) Regulate the use, maintenance, repair, replacement, and modification of the Common Elements;
- (g) Cause additional Improvements to be made as a part of the Common Elements;
- (h) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, subject to the provisions of Sections 7.2, 20.3 and 25.1.
- (i) Grant easements, leases, licenses, and concessions through or over the Common Elements;
- (j) Impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Elements other than the Limited Common Elements described in Section 38-33.3-315 of the Act;
- (k) Impose charges for late payment of assessments, recover reasonable attorney fees and other legal costs for collection of assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated, and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws, and rules and regulations of the Association;
- (l) Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid assessments;
- (m) Provide for the indemnification of its officers and executive board and maintain director's and officer's liability insurance;
- (n) Assign its right to future income, including the right to receive Common Expense assessments, but only to the extent this Declaration expressly so provides;
- (o) Exercise any other powers conferred by the Declaration or Bylaws;
- (p) Exercise all other powers that may be exercised in the State of Colorado by legal entities of the same type as the Association; and
- (q) Exercise any other powers necessary and proper for the governance and operation of the Association.

13.3 Association As Attorney-in-Fact. The title to any Unit is hereby declared and expressly made subject to the terms and conditions hereto, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or any prior Owner shall constitute the appointment of the Association as the Owner's attorney-in-fact for the purposes expressly set forth in this Declaration. The Association, as attorney-in-fact, shall have full and complete authorization, right and power to (i) make, execute and deliver any contract, deed or other document with respect to the interest of the Owner of a Unit for the purposes expressly set forth in this Declaration; and (ii) execute, deliver and file of record with the office of the Clerk and Recorder of San Miguel County, Colorado, such instruments, deeds, Condominium Maps and Condominium Declaration amendments and supplements as are necessary or desirable for the purposes expressly set forth in this Declaration.

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

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

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

- (a) Maintenance, repair and restoration of the Common Elements, except only as otherwise provided.
- (b) Administration and management of the Common Elements.
- (c) Heating, lighting and other utility services for all common areas.
- (d) Obtaining and maintaining of all required insurance as hereafter provided.
- (e) The enforcement of all of the provisions of this Declaration and the Association's rules and regulations and the collection of all obligations and assessments owed to the Association by the Owners.
- (f) Acting as attorney-in-fact for the Owners in accordance with this Declaration.
- (g) Performing all other acts required by this Declaration, or the Articles of Incorporation and Bylaws of the Association, or any amendments thereto.
- (h) In addition to the foregoing, the Association shall have the right to hire one or more persons including a management agent, to perform such services. No contract or agreement for the employment of a management agent or professional manager for the Project shall be for a term in excess of one year and any such agreement shall provide that the same may be terminated with or without cause and without payment of any termination fee on 90 days prior written notice.

ARTICLE 14
MAINTENANCE RESPONSIBILITY FOR UNIT

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

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

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

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

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

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

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

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

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

ARTICLE 15

ADMINISTRATION AND MANAGEMENT

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

15.1.1 If appointed by the Declarant, in the performance of their duties, the officers and members of the Board are required to exercise the care required of fiduciaries of the Owners. If not appointed by the Declarant, no member of the Board and no officer shall be liable for actions taken or omissions made in the performance of such Board member's duties except for wanton and willful acts or omissions.

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

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

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

15.3 Budget. Within thirty (30) days after adoption of any proposed budget for the Association, the Board shall mail by ordinary first-class mail or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting a majority of all Owners reject the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

15.4 Marketing Period. During the Marketing Period, the Declarant, or persons designated by it, may appoint and remove the officers and members of the Board. The Marketing Period shall terminate no later than either: (i) sixty days after conveyance of seventy-five percent (75%) of the Units that may be conveyed to Owners other than the Declarant; (ii) two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business; or (iii) two (2) years after any right to add new Units was last exercised.

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

15.5 Election of the Board during Marketing Period. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be conveyed to Owners other than the Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board must be elected by Owners other than the Declarant. Not later than sixty (60) days after the conveyance of fifty percent (50%) of the Units that may be created to Owners other than the Declarant, not less than thirty-three and one-third percent (33 1/3%) of the members of the Board must be elected by Owners other than the Declarant.

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

15.7 Removal of Board Member. The Owners, by a two-thirds (2/3) vote of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any member of the Board with or without cause, other than a member appointed by Declarant.

15.8 Delivery of Association Documents. Within sixty (60) days after the Owners other than the Declarant elect a majority of the members of the Board, the Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by the Declarant, including without limitation the following items:

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

(b) An accounting for Association funds and financial statements, from the date the Association received funds and ending on the date the Marketing Period ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for or charged to the Association;

(c) The Association funds or control thereof;

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

(e) A copy of any plans and specifications used in the construction of the Improvements in the Project which were completed within two years before the Declaration was recorded;

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

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

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

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

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

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

ARTICLE 16

ASSESSMENT FOR COMMON EXPENSES

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

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

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

16.4 Interest. Any past-due Common Expense assessment or installment thereof shall bear interest at the rate established by the Association not exceeding twenty-one percent (21%) or the maximum interest rate allowed by Colorado law, whichever is less.

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

ARTICLE 17

APPORTIONMENT OF CERTAIN EXPENSES

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

17.2 Benefit of Class of Owners. Any expense or portion thereof which the Board reasonably determines to be of benefit to only one class of Owners shall be borne by such class (i.e., Residential Unit Owners or Commercial Unit Owners). Any such expense shall be shared by the Owners within such class in accordance with their relative appurtenant percentage interests in and to the General Common Elements as specified in Exhibit "B". It is acknowledged that the utility costs for the Commercial Units may exceed that of the Residential Units. The Board shall attribute to the Commercial Units the fair and proportionate amount of such utility charges not separately assessed that they should pay. Water and sewer, unless separately metered, shall be apportioned to the Residential Units as long as they all are used as Residential Units according to the formula used by the Town of Telluride to determine water and sewer charges for such Units;

provided, however, if the Town of Telluride discontinues such formula, the Board shall have the duty to determine another fair method of apportioning the water and sewer charges.

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

ARTICLE 18 COLLECTION OF COMMON EXPENSES

18.1 Assessment Lien. Declarant, for each Unit, shall be deemed to covenant and agree, and each Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association annual Common Expense assessments, insurance assessments (assessed in proportion to risk), utility assessments (assessed in proportion to usage) and such other assessments as imposed by the Association. Such assessments, including fees, charges, late charges, attorney fees, fines and interest charged by the Association shall be the personal obligation of the Owner at the time when the assessment or other charges became or fell due. The grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid assessments against a Unit up to the time of the grant of conveyance, without prejudice to the grantee's right to recover from the grantor any amounts paid by the grantee therefor. No Owner may become exempt from liability for payment of the Common Expense assessments by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the Common Expense Assessments are made. All Assessments shall payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted by any reason including, without limitation, any claim that the Association or the Executive Board is not properly exercising its duties and powers under this Declaration. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them.

The Association annual Common Expense assessments, insurance assessments (assessed in proportion to risk), utility assessments (assessed in proportion to usage) and such other assessments as imposed by the Association, including fees, charges, late charges, attorney fees, fines and interest charged by the Association, shall be a charge on each Unit and shall be a continuing lien upon the Unit against which each such assessment or charge is made. If a Common Expense assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment become due.

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

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

18.3 Effect of Nonpayment of Assessments. Any assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within ten (10) days after the due date thereof shall bear interest at the rate as determined by the Board and additionally, the Association may assess a late charge thereon. Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Unit. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefor.

18.4 Working Fund. The Association or Declarant may require the first Owner of each Unit (other than Declarant) to make a nonrefundable payment to the Association in an amount equal to one-sixth (1/5) of the annual Common Expense Assessment against that Unit in effect at the closing thereof, which sum shall be held, without interest, by the Association as a working fund. Said working fund shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Unit, as aforesaid, and shall be maintained for the use and benefit of the Association. Such payment shall not relieve an Owner from making regular payments of assessments as the same become due. Upon the transfer of his Unit, an Owner shall be entitled to a credit from his transferee for any unused portion of the aforesaid working fund.

ARTICLE 19 INSURANCE

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

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

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

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

19.2 Scope of Insurance. In the case of a Building that contains Units having horizontal boundaries described in the Declaration, the insurance maintained under paragraph (a) of subsection 19.1 of this section must include the Units but not the finished interior surfaces of the walls, floors, and ceilings of the Units. The insurance need not include Improvements and betterments installed by Owners, but if they are covered, any increased charge shall be assessed by the Association to those Owners.

19.3 Cancellation of Insurance. If the insurance described in Sections 19.1 and 19.2 is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefore having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners.

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

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

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

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

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

19.5 Adjustment of Claims. Any loss covered by the property insurance policy described in Section 19.1(a) and Section 19.2 must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The insurance trustee or the Association, Owners and lienholders as their interests may appear. Subject to the provisions of Section 19.8, the proceeds must be disbursed first for the repair or restoration of the damage property, and the Association, Owners, and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Project is terminated.

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

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

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

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

(i) The common interest community is terminated pursuant to the provisions of this Declaration and the Act;

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

(iii) Seventy-five percent (75%) of the Owners, including every Owner of a Unit or assigned Limited Common Element agree that it will not be rebuilt and vote not to rebuild; or

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

19.8.1 The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Project is not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Project, and, except to the extent that other persons will be distributes, the insurance proceeds attributable to Units and Limited Common Elements that are not rebuilt must be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated, or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all the Owners and lienholders in proportion to such Units' allocated interests in the General Common Elements.

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

19.9.1 Any person employed as an independent contractor by the Association for the purposes of managing the Project must obtain and maintain fidelity insurance in an amount not less than the amount specified in this Section 19.9, unless the Association names such person as an insured employee in a contract of fidelity insurance, pursuant to this Section 19.9.

19.9.2 The Association may carry fidelity insurance in amounts greater than required in this Section 19.9 and may require any independent contractor employed for the purposes of managing the Project to carry more fidelity insurance coverage than required in this Section 19.9.

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

ARTICLE 20 OBSOLESCENCE

20.1 Renewal and Reconstruction. The Owners representing an aggregate percentage ownership interest of 85% or more (according to the percentage interest in General Common Elements), and holders of duly recorded first Mortgages representing an aggregate of seventy-five percent (75%) of the outstanding aggregate principal balance of said Mortgages, may agree that the Project is obsolete and adopt a plan for the renewal and reconstruction.

20.1.1 If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the Owners as Common Expenses; provided, however, that an Owner, who is not a party to such a plan for renewal or reconstruction, may give written notice to the Association within fifteen (15) days after the date of adoption of such plan that his Unit shall be purchased by the Association for the fair market value thereof. The Association shall then have thirty (30) days within which to cancel such plan. If such plan is not canceled, the Unit of the requesting Owner shall be purchased according to the following procedures.

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

(b) If the parties are unable to agree, the date when either party notifies the other that he or its is unable to agree with the other shall be the "Commencement Date" from which all periods of time mentioned hereafter shall be measured. Within ten (10) days following the Commencement Date, each party shall nominate an appraiser in writing (and give notice of such nomination to the other party). If either party fails to make such a nomination, the appraiser nominated shall, within five (5) days after default by the other party, appoint and associate with him another appraiser. If the two designated or selected appraisers are unable to agree on the fair market value of the Unit, they shall appoint another appraiser to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, each appraiser previously appointed shall nominate two appraisers, and from the names of the four appraisers so nominated one shall be drawn by lot by any judge of any court of record in San Miguel County, Colorado, and the name so drawn shall be such umpire. The nominations from whom the umpire is to be drawn by lot shall be submitted within ten (10) days of the failure of the two appraisers to agree, which, in any events shall not be later than twenty (20) days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value, or in the case of their disagreement, then such decision of the umpire, shall be final and binding and a judgment based upon the decision rendered may be entered in any court having jurisdiction thereof. The expenses and fees of such appraisers shall be borne equally by the Association and the Owner.

(c) The sale shall be consummated within fifteen (15) days thereafter, and the Association, as attorney-in-fact, shall disburse such proceeds to the Association, Owner(s), and lienholders, as their interests may appear.

20.2 Sale of Property. If the Owners representing an aggregate percentage ownership interest of eighty-five percent (85%) or more (according to the percentage interest in General Common Elements) may agree that the Project is obsolete and that the same should be sold, the Association shall forthwith record a notice executed by the Association's president and secretary or assistant secretary setting forth such fact, and upon the recording of such notice the Project shall be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration. The sales proceeds shall be collected and apportioned between the Owners on the basis of each Owner's appurtenant interest in and to the Common Elements as specified in Exhibit "B", and such apportioned proceeds shall be paid into separate accounts, each account representing one Unit. Each such account shall be in the name of the Association, and shall be further identified by the Unit designation and the name of the Owner. The Association, as attorney-in-fact, shall use and disburse the total amount of each separate account, without contribution from one account to another, to the Association, Owner(s) and lienholders, as their interests may appear.

20.3 Conveyance of General Common Elements. The Owners representing an aggregate ownership interest of 85% or more (according to the percentage interest in General Common Elements) may agree to convey or encumber all or part of the General Common Elements. Such agreement to convey or encumber all or part of the General Common Elements must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of Owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in the Office of the Clerk and Recorder of the County of San Miguel and is effective only upon recordation.

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

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

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

ARTICLE 21 CONDEMNATION

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

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

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

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

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

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

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

ARTICLE 22 STATEMENT OF ACCOUNT

22.1 Statement of Assessments. The Association shall furnish to a Owner or such Owner's designee or to a holder of a security interest or its designee upon written request by the Owner, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Association's registered agent, a statement setting forth the amount of unpaid assessments currently levied against such Owner's Unit. The statement shall be furnished within ten (10) business days after receipt of the request by the Association and is binding on the Association, the Board, and every Owner. If no statement is furnished to the Owner or holder of a security interest or their designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a priority lien upon the Unit for unpaid assessments which were due as of the date of the request.

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

ARTICLE 23 TERMINATION OF MECHANIC'S LIEN RIGHTS AND INDEMNIFICATION

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

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

ARTICLE 24 MORTGAGING A UNIT - PRIORITY

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

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

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

ARTICLE 25 PROPERTY FOR COMMON USE

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

ARTICLE 26**SPECIAL DECLARANT RIGHTS AND ADDITIONAL RESERVED RIGHTS**

26.1 **Special Declarant Rights.** Declarant hereby reserves the following special declarant rights (the "Special Declarant Rights") and Additional Reserved Rights (as defined below) for the maximum time limit allowed by law:

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

26.1.2 **Exercise of Development Rights.** The right to exercise any development right reserved in Article 26, Article 27, or any other provision of this Declaration.

26.1.3 **Sales Management and Marketing.** The right to maintain sales offices, management offices, and models in Units and the right to maintain signs advertising the Project. The sales offices, management offices and models shall be considered Units and may be sold by the Declarant.

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

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

26.1.6 **Master Association.** The right to make the Project subject to a master association.

26.1.7 **Merger.** The right to merge or consolidate a Project with another Project of the same form of ownership.

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

26.1.9 **Amendment of Declaration.** The right to amend the Declaration in connection with the exercise of any development rights.

26.1.10 **Amendment of Map.** The right to amend the Map in connection with the exercise of any development rights.

26.2 **Additional Reserved Rights.** In addition to the Special Declarant Rights set forth in Section 26.1 above, Declarant also reserves the following additional rights (the "Additional Reserved Rights"):

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

26.2.2 Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of parking and/or recreational facilities, which may or may not be a part of the Project for the benefit of the Owners and/or the Association.

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

26.3 Rights Transferable. Any Special Declarant Right or Additional Reserved Right created or reserved under this Article for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred and recorded in every county in which any portion of the Project is located. Such instrument shall be executed by the transferor Declarant and the transferee.

ARTICLE 27 DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS

27.1 Development Rights. The Declarant reserves, through ten (10) years after the recording of this Declaration, or such maximum period allowed by law, not to exceed twenty (20) years, whichever is greater, the following development rights and Special Declarant Rights:

(a) The right to relocate boundaries between adjoining Units, enlarge Units, enlarge the Common Elements, reduce or diminish the size of Units, reduce or diminish the size of areas of the Common Elements, subdivide Units or complete or make Improvements indicated on plats filed of record or filed with the Declaration;

(b) The right to exercise any development rights reserved below or allowed in the Act;

(c) The right to use, and to permit others to use, easements through the Common Elements as may be reasonably necessary for construction and for the purpose of discharging the Declarant's obligations under this Declaration;

(d) The right to make the common interest community subject to an additional master association and master declaration;

(e) The right to merge or consolidate the common interest community with another common interest community;

(f) The right to appoint or remove any officer of the Association or any Board member during the Declarant Control period;

(g) The right to amend the Declaration in connection with the exercise of any development right; and

(h) The right to amend the Condominium Map in connection with the exercise of any development right.

ARTICLE 28

REVOCATION OF DECLARATION

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

28.2 Amendment. This Declaration shall not be amended, except that during the Marketing Period the Declarant shall have an absolute right to amend. After the Marketing Period, this Declaration may be amended if the Owners representing an aggregate ownership interest of Seventy-five 75% or more of the General Common Elements, the holders of duly recorded first Mortgages representing an aggregate of Seventy-five percent (75%) of the outstanding principal balance of said Mortgages covering or affecting any or all Units and the Declarant all unanimously consent and agree to such amendment by instrument(s) duly recorded; provided, however, that:

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

(b) no such supplement shall increase the proportionate expenses chargeable against any Unit or Owner thereof without the unanimous consent of the Owners affected thereby expressed in an amended Declaration duly recorded.

Notwithstanding the provisions of this Article 28, in the event of the combination, division or partition of a Unit or Units pursuant to the reservations set forth in Section 3.3 above, the Owner or Owners of the Unit or Units subject to such combination, division, or partition and the holders of any recorded first Mortgage or first deed of trust covering or affecting any such Unit or Units may amend this Declaration to reflect the adjustment (which adjustment must be based upon the relative square footage of the resulting spaces) between the resulting spaces and the Owner or Owners thereof with respect to the percentage ownership in the Common Elements and the percentage of Common Expenses attributable to such resulting spaces; provided, that any such amendment shall not increase or decrease the percentage ownership in the Common Elements of, or the percentage of Common Expenses to be paid by, any Owner not involved in such combination, division, or partition.

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

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

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

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

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

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

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

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

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

(c) In all other cases, the Association.

ARTICLE 29 MISCELLANEOUS

29.1 Registration by Owner of Mailing Address.

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

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

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

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

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

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

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

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

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

29.6 Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

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

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

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

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

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29.11 Reservations by Declarant. Declarant reserves to itself and hereby grants to the Association the right to establish from time to time by dedication or otherwise, so long as same does not unduly interfere with the rights of any Unit Owner, utility and other easements, for purposes including but not limited to paths, walkways, drainage or recreation areas, parking or land areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions consistent with the condominium ownership of Plunge Landing to the best interest of all the owners and the Association in order to serve all the Owners within the Project.

29.12 Association as Attorney-in-Fact - Power of Attorney. This Declaration does hereby make the irrevocable appointment of the Association as attorney-in-fact for all owners to deal with the condominium property upon its destruction, obsolescence, repair or reconstruction or condemnation, and title to each condominium Unit is declared and expressly made subject to the terms and conditions hereof and acceptance by the grantee of a deed from the Declarant or from any Owner shall irrevocably constitute and appoint the Association their true and lawful attorney in their name, place and stead for the purpose of dealing with the Condominium Property upon its destruction, obsolescence, repair or reconstruction. In the event the Condominium Property is sold by the Association, as attorney-in-fact, pursuant to Articles 19-21, the Association shall record a notice in the office of the Clerk and Recorder of San Miguel County, Colorado, setting forth the circumstances of such sale, and this Declaration shall wholly terminate and expire upon the recording of such notice.

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of this 17 day of May, 1995.

Telluride Mountain Ventures I, LLC,
a Colorado limited liability company,

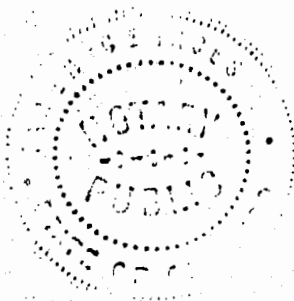
BY: Christopher E. Bou
Christopher E. Bou, Manager

STATE OF COLORADO)
) ss.
COUNTY OF SAN MIGUEL)

The above and foregoing Declaration has been acknowledged by me this 17th day of May, 1995, by Christopher E. Bou as Manager of Telluride Mountain Ventures I, LLC, a Colorado limited liability corporation.

My Commission Expires: May 31, 1995

Witness my hand and official seal.



Karen Georgeson

NOTARY PUBLIC, residing at:

Address of Notary: _____

Karen Georgeson Notary Public

My Commission expires May 31, 1995

124 E. Pacific

Telluride, CO 81435

LENDER'S CONSENT

The undersigned Bank One, Colorado, N.A., as a beneficiary of that certain Deed of Trust which constitutes a lien upon the Declarant's property, dated April 8, 1993, recorded on April 19, 1993 in Book 520, at Page 773, San Miguel County Clerk and Recorder, hereby consents to the dedication of land to streets, alleys, roads and other public areas, as designated on the Condominium Map and in this Declaration, and hereby forever releases said lands from the lien created by said instruments.

Bank One, Colorado, N.A.
 (formerly known as Bank One Western Colorado, N.A.)
 (formerly known as First National Bank of Montrose)

BY: David Wright
 David Wright, Vice President

5/18/95
 Date

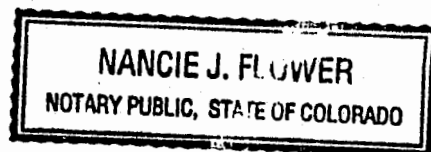
401 Main Street
P.O. Box 1189
Montrose, CO 81402-1189
 Address

State of Colorado)
 County of Montrose) ss.

The foregoing lender's consent was acknowledged before me this 18th day of May, 1995, by David Wright, Vice President of Bank One, Colorado, N.A.

My commission expires on: 10-27-98
 Witness my hand and official seal.

Nancie J. Flower
 Notary Public



C:\BOU\232PAC2.DEC

EXHIBIT "A"**THE LAND**

Parcel B according to the replat of Lots 10, 12 and 14, Block 31, Town of Telluride, recorded May 25, 1979 in Plat Book at Page 147, in the Office of the Clerk and Recorder, County of San Miguel, State of Colorado.

EXHIBIT "B"

<u>UNIT</u>	<u>SQUARE FEET</u>	<u>PERCENTAGE OWNERSHIP OF GENERAL COMMON ELEMENTS</u>
A	947	14.25%
B	1377	20.73%
C	1317	19.82%
D	1316	19.81%
E	870	13.09%
R	817	12.30%