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DECLARATION OF GRANTS, COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

HERITAGE CROSSING AT THE GONDOLA CONDOMINIUMS

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DECLARATION OF GRANTS, COVENANTS, CONDITIONS AND RESTRICTIONS FOR HERITAGE CROSSING AT THE GONDOLA CONDOMINIUMS

THIS DECLARATION OF GRANTS, COVENANTS, CONDITIONS AND RESTRICTIONS FOR HERITAGE CROSSING AT THE GONDOLA CONDOMINIUMS (referred to, as it may be amended or supplemented from time to time, as the "Declaration") shall be effective (the "Effective Date") upon recordation in the Official Records (as hereinafter defined) and is made by Wildair, LP, a Texas limited partnership ("Declarant").

RECITALS

A. Declarant is the fee simple owner of certain real property ("Land") located in the Town of Mountain Village, San Miguel County, Colorado, as more particularly described herein and in Exhibit A attached hereto and incorporated herein, together with the Improvements thereon and, further, Declarant is a beneficiary to the rights existing under all easements, rights and appurtenances thereto (collectively, the "Property"). The Property is subject to all covenants, agreements, licenses and easements of record, including, without limitation, those recorded in the Official Records.

B. Declarant has caused the Association (as hereinafter defined) to be incorporated under the laws of the State of Colorado for the purpose of exercising the functions of a condominium owners association as herein described.

C. The purpose of this Declaration is to create a condominium project known as Heritage Crossing at the Gondola Condominiums (the "Project") by submitting the Property to the condominium form of ownership and use pursuant to the Colorado Common Interest Ownership Act, Article 33.3, Title 38, Colorado Revised Statutes, as amended and supplemented from time to time (the "Act") and to establish a uniform plan for the development, sale and ownership of the Units (as hereinafter defined). In such regard, Declarant deems it necessary and desirable to subject the Property to the grants, covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth in this Declaration.

In consideration of the foregoing, Declarant hereby declares as follows:

ARTICLE I
IMPOSITION OF COVENANTS

1.1. **Intention of Declarant.** Declarant desires to (i) protect the value and desirability of the Project, (ii) further a plan for the improvement, sale and condominium ownership of the Project, (iii) create a harmonious and attractive development, and (iv) promote and safeguard the health, comfort, safety, convenience and welfare of the Owners (as hereinafter defined).

1.2. **Condominium Declaration.** To accomplish the purposes and intentions recited above, Declarant hereby submits the Property, together with all improvements, appurtenances and facilities relating to or located on the Property now and in the future, to condominium ownership under the Act, and hereby imposes upon all of the Property the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions of this Declaration, and Declarant hereby declares that all of the Property shall be held, sold, conveyed, encumbered, leased, rented, occupied, and improved, subject to the provisions of this Declaration.

1.3. **Covenants Running with the Land.** All grants, covenants, conditions, restrictions, reservations, easements, charges, liens and other provisions of this Declaration shall be deemed to be covenants running with the Land or shall constitute equitable servitudes with respect to the Land, as the case may be. The obligations, benefits, burdens and other provisions contained in this Declaration shall be binding upon and shall inure to the benefit of Declarant, each Owner, the Association and their respective heirs, devisees, executors, administrators, personal representatives, successors and assigns.

ARTICLE II
DEFINITIONS

2.1. **Basic Definitions.** As used in this Declaration, unless the context shall expressly provide otherwise, the following terms shall have the meanings given to them in this Article II:

2.1.1. **"Access Easements"** means the Easements described by reference to the Official Records in Exhibit B-1 attached hereto and incorporated herein by reference, as amended or supplemented from time to time, which Access Easements grant and convey rights (i) to construct, maintain and use, as applicable, certain property and improvements, and (ii) of vehicular ingress to and egress from Mountain Village Boulevard and the Property.

2.1.2. **"Act"** means the Colorado Common Interest Ownership Act as defined in Recital C above. In the event the Act is repealed, the Act in effect on the Effective Date shall remain applicable to this Declaration.

2.1.3. **"Additional Reserved Rights"** has the meaning ascribed in Section 24.2 below.

2.1.4. **"Allocated Interests"** means, as applicable, the undivided interest in the Common Elements and the Common Expenses Liability and the votes in the Association allocated to each of the Units. The formulas used to establish the Allocated Interests are described in Article IV. The Allocated Interests for each Unit are set forth on Exhibit C attached hereto and incorporated herein by reference.

2.1.5. **"Area of a Unit"** and **"Area"** mean the total number of square feet of the floor surface of the Unit as shown on the Condominium Map or, if such square footage is not shown on the Condominium Map, then "Area of a Unit" or "Area" means the total number of square feet of the floor surface thereof as reasonably determined by the Board.

2.1.6. **"Architectural Review Committee"** means the committee appointed by the Board to review proposals to construct improvements to the Property.

2.1.7. **"Articles"** means the Articles of Incorporation of the Association filed with the Colorado Secretary of State on or about February 27, 2002, as amended from time to time.

2.1.8. **"Assessment"** means a General Assessment, Special Assessment or Default Assessment levied pursuant to this Declaration, and **"Assessments"** means the General Assessments, Special Assessments and/or Default Assessments levied pursuant to this Declaration.

2.1.9. **"Assessment Lien"** has the meaning ascribed in Section 18.1 below.

2.1.10. **"Association"** means Heritage Crossing at the Gondola Owners Association, Inc., a Colorado nonprofit corporation, and its successors and assigns.

2.1.11. "Board" means the governing body of the Association, as provided in this Declaration and in the Articles, Bylaws and Act.

2.1.12. "Bylaws" means the Bylaws of the Association, as amended from time to time.

2.1.13. "Class" and **"Classes"** have the meanings ascribed in Section 8.2.5 below.

2.1.14. "Club Telluride Condominiums" means a common interest community created pursuant to the Colorado Common Interest Ownership Act (Colorado Revised Statutes §38-33.3-101, *et seq.*) by the Condominium Declaration for Club Telluride Condominiums recorded November 4, 1996, in Book 570 at Page 140 among the Official Records (Reception No. 308404), as supplemented, and the Condominium Map for Club Telluride Condominiums filed for record on November 4, 1996, in Plat Book 1 at Page 2150 among the Official Records (Reception No.308405), as amended or supplemented from time to time.

2.1.15. "Commercial Unit" means any commercial Unit located in the Project and identified on the Condominium Map with a Unit designation beginning with "C".

2.1.16. "Commercial Unit Assessment" means the Assessment levied against a Commercial Unit, and "Commercial Units Assessments" means the Assessments levied against the Commercial Units.

2.1.17. "Commercial Unit Owners Class" has the meaning ascribed in Subsection 8.2.5 below.

2.1.18. "Common Elements" means all of the Project, other than the Units, inclusive of, except as otherwise stated or limited herein or therein, the Easements, including, without limiting the generality of the foregoing, the following components:

A. the Property; and

B. the Improvements, including, but not by way of limitation, the foundations, columns, girders, beams, supports, perimeter and supporting walls, chimneys, chimney chases, roofs, patios, balconies, entrances and exits, and the mechanical installations of the Improvements consisting of the equipment and materials making up any central services such as power, light, gas, hot and cold water, sewer, cable television, and heating and central air conditioning which exist for use by one or more of the Unit Owners, including the pipes, vents, ducts, flues, cable conduits, wires, telephone wire and other similar utility installations used in connection therewith, except for the Units; and

C. the yards, sidewalks, walkways, paths, grass, shrubbery, trees, driveways, roadways, landscaping, gardens, parking areas and related facilities upon the Property;

D. the pumps, tanks, motors, fans, storm drainage structures, compressors, ducts and, in general, all apparatus, installations and equipment of the Improvements existing for use of one or more of the Unit Owners; and

E. in general, all other parts of the Project designated by Declarant as Common Elements and existing for the use of one or more of the Unit Owners.

The Common Elements shall be owned by the Unit Owners of the separate Units, each Unit Owner of a Unit having an undivided interest in the Common Elements as allocated in Exhibit C hereto and incorporated herein by reference.

2.1.19. "Common Expenses" means expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves, including, without limiting the generality of the foregoing, the following items:

A. any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, without limitation, costs, expenses and liabilities for (i) managing, operating, insuring, improving, repairing, replacing and maintaining the Common Elements; (ii) providing facilities, services and other benefits to Owners; (iii) administering and enforcing the grants, covenants, conditions, restrictions, reservations and easements created hereby; (iv) levying, collecting and enforcing the Assessments and charges and liens imposed pursuant hereto; (v) regulating and managing the Project; (vi) operating the Association; and (vii) insurance, security and utility costs attributable to the operation of the Common Elements, except to the extent such costs, expenses and liabilities are responsibilities of a Unit Owner as provided in this Declaration;

B. expenses declared Common Expenses by the provisions of this Declaration or the Bylaws (and the Board may allocate Common Expenses to all Owners, or to Classes of Owners, as provided herein);

C. all sums lawfully assessed against a Unit or Units by the Board;

D. expenses agreed upon as Common Expenses by the members of the Association;

E. reserves for any such costs, expenses and liabilities as established by the Board;

F. expenses provided to be paid pursuant to any Management Agreement; and

G. expenses arising from rights, duties, obligations and burdens created by and under the Easements and any other agreements entered into by Declarant which are necessary, in Declarant's sole discretion, to obtain consents, approvals and permits to develop and construct the Project.

2.1.20. "Common Expenses Liability" means the liability for Common Expenses allocated to each Unit pursuant to this Declaration.

2.1.21. "Condominium Documents" means the basic documents creating and governing the Project, including, but not limited to, this Declaration, the Articles, the Bylaws, the Easements, the Condominium Map and any procedures, Rules and Regulations or policies relating to the Project adopted hereunder or thereunder, as amended or supplemented from time to time.

2.1.22. "Condominium Map" means that part of this Declaration that depicts all or any portion of the Project in three dimensions, is executed by the Declarant and is recorded in the Official Records. A Condominium Map and a Plat may be combined in one instrument. In a Condominium Map, "Horizontal Boundary" means a plane of elevation relative to a described benchmark that defines either a lower or upper

dimension of a Unit such that the Real Estate respectively below or above the defined plane is not part of the Unit; and "Vertical Boundary" means the defined limit of a Unit that is not a Horizontal Boundary of that Unit.

2.1.23. **"Corporation Act"** means the Colorado Revised Nonprofit Corporation Act, Colorado Revised Statutes Title 7, Articles 121 - 137, as amended.

2.1.24. **"Costs of Enforcement "** means all monetary fees, fines, late charges, interest, expenses, costs, including receiver's and appraiser's fees, and reasonable attorneys' fees and disbursements, including legal assistants' fees, incurred by the Association in connection with the collection of Assessments or in connection with the enforcement of the terms, conditions and obligations of the Condominium Documents.

2.1.25. **"CTOA"** means Club Telluride Owners Association, Inc., the unit owners association responsible for management and maintenance of Club Telluride Condominiums.

2.1.26. **"CTOA Access Common Elements"** shall mean, with respect to each Owner of a CTOA Parking Space, the portions of the Common Elements depicted on the Condominium Map, if any, or as reasonably defined by the Association and the Common Elements (but not Limited Common Elements) reasonably required by such Owner for (i) vehicular ingress and egress between the parking garage in Club Telluride Condominiums and such Owner's CTOA Parking Space, and (ii) pedestrian ingress and egress between (a) such Owner's CTOA Parking Space and Club Telluride Condominium, and (b) such Owner's CTOA Parking Space and Heritage Plaza.

2.1.27. **"CTOA Parking Spaces"** means Units P-25, P-36, P-39 and P-40, which Units are to be conveyed to CTOA pursuant to that certain Agreement to Convey between Declarant and CTOA dated May 10, 2000, recorded May 11, 2000, among the Official Records (Reception No. 334096) (the "Agreement to Convey").

2.1.28. **"CTOA Plaza Level Space"** means Unit C-3, which Unit is to be conveyed to CTOA pursuant to the Agreement to Convey.

2.1.29. **"Declarant"** means Wildair, LP, a Texas limited partnership, together with any Person who may succeed to the Rights Reserved by Declarant.

2.1.30. **"Declarant Control Period"** has the meaning ascribed in Section 10.4 below.

2.1.31. **"Declarant Improvements"** means that portion of the Improvements being constructed by or under the direction of Declarant and shall include Unit Buildout by Declarant or its designee within any Unit owned by Declarant.

2.1.32. **"Declarant Related Party"** means an officer, director, partner, manager, member, employee, agent, contractor, subcontractor, customer, invitee and/or representative of Declarant.

2.1.33. **"Declaration"** means this Declaration, together with any supplement or amendment to this Declaration, and any other recorded instrument however denominated which exercises a Development Right and is executed by Declarant and recorded in the Official Records. The term "Declaration" includes all Condominium Maps and Plats recorded with this Declaration and all amendments and supplements hereto and thereto.

2.1.34. **""Default Assessment"** has the meaning ascribed in Section 17.4 below.

2.1.35. "Development Right" has the meaning ascribed in Section 24.3 below.

2.1.36. "Director" means a duly elected or appointed member of the Board.

2.1.37. "Easements" means those certain easement agreements described by reference to the Official Records in Exhibit B attached hereto and incorporated herein by reference, including, without limitation, the Access Easements, the Encroachment Easement, the Parking Easement and the Utility Easements described in Exhibits B-1 through B-4, as amended or supplemented from time to time.

2.1.38. "Easements Assumption Date" has the meaning ascribed in Subsection 11.2.4.B. below.

2.1.39. "Eligible First Mortgagee" means a First Mortgagee which has notified the Association in writing of its name and address and status as a First Mortgagee and has requested that it receive notices provided for in Subsection 22.3.3.

2.1.40. "Encroachment Easement" means the Encroachment Agreement described by reference to the Official Records in Exhibit B-2 attached hereto and incorporated herein by reference, as amended or supplemented from time to time, which Encroachment Easement creates rights to (i) construct portions of the Improvements, and (ii) maintain, access and use the same.

2.1.41. "First Mortgage" means a mortgage on a Unit which is not subordinate to any other lien or encumbrance, except liens for taxes or other liens which are given priority by statute.

2.1.42. "First Mortgagee" means a Mortgagee under a First Mortgage.

2.1.43. "General Assessment" has the meaning ascribed in Section 17.2 below.

2.1.44. "General Common Elements" means all of the Common Elements other than (i) the Limited Common Elements, and (ii) as determined by the Association pursuant to this Declaration.

2.1.45. "Grantee" has the meaning ascribed in Subsection 11.2.4 below.

2.1.46. "Guest" means any family member, employee, agent, independent contractor, lessee, customer or invitee of an Owner.

2.1.47. "Improvement" means the building(s), structure(s) and other improvements (including, without limitation, all fixtures and improvements contained therein) located on the Property in which Units or Common Elements are included.

2.1.48. "Interior Unit Building Design and Construction Rules and Regulations" means those rules, regulations and guidelines promulgated by the Board with respect to the interior construction of a Unit.

2.1.49. "Laws" means all applicable laws, codes, ordinances, design guidelines, rules, regulations and directives of governmental, quasi-governmental and other entities with jurisdiction over the Property and improvements thereto, and any one of the same is herein referred to as a "Law".

2.1.50. "Limited Common Elements" those parts of the Common Elements which are limited to and reserved for the use in connection with one or more, but fewer than all, of the Units. Without

limiting the foregoing, Limited Common Elements shall include any balcony, deck, patio, courtyard or porch appurtenant to and accessible from one or more, but less than all of, the Units, any shutters, awnings, window boxes, doorsteps, stoops, porch, balcony or patio designated or designed to serve one or more, but less than all of, the Units, and located outside the Unit's (s') boundaries. Storage spaces, parking spaces and/or ski lockers may be designated on the Map as Common Element(s) or Limited Common Elements. 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 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 Common Elements. "Limited Common Elements" also includes any portion of the Common Elements allocated by this Declaration or on the Condominium Map as a "Limited Common Element" or "LCE". All Limited Common Elements shall be used in connection with the appurtenant Unit(s) to the exclusion of the use thereof by the other Unit Owners except by invitation. Subject to the Association's overall responsibility for maintenance of the Limited Common Elements, each Unit Owner shall be responsible for routine maintenance and care of the walls, ceilings and floors of any balcony or of any Limited Common Elements appurtenant to and accessible only from the Unit Owner's Unit, and for keeping the same in a good, clean, sanitary and attractive condition. No reference to Limited Common Elements need be made in any instrument of conveyance or encumbrance in order to convey or encumber the Limited Common Elements appurtenant to a Unit.

2.1.51. "Limited Common Expenses" means those Common Expenses assessed against fewer than all of the Units in a form and manner as provided for herein.

2.1.52. "Majority", regardless of whether capitalized, means a percentage greater than fifty (50), or any greater percentage that may be specifically required for a particular action or authorization by the terms of this Declaration.

2.1.53. "Management Agreement" means any contract or arrangement entered into for the purposes of discharging the responsibilities of the Board relative to the operation, maintenance and management of the Project.

2.1.54. "Managing Agent" means a Person employed or engaged as an independent contractor pursuant to a Management Agreement to perform management services on behalf of the Association.

2.1.55. "Maximum Number of Units" has the meaning ascribed in Subsection 3.1.2 below.

2.1.56. "Member" means any Person, including Declarant, who owns a Unit, and "Members" means more than one such Person.

2.1.57. "Membership" means membership in the Association and the rights granted to an Owner pursuant to this Declaration and the other Condominium Documents to participate in the Association.

2.1.58. "Mortgage" means any mortgage, deed of trust or other document granting a consensual lien on any Unit or interest therein as security for payment of a debt or obligation.

2.1.59. "Mortgagee" means any Person named as a mortgagee or beneficiary in any Mortgage and any successor to the interest of any such Person.

2.1.60. "Officer" means a duly elected or appointed officer of the Association.

2.1.61. "Official Records" means the records of the Office of the Clerk and Recorder of San Miguel County, State of Colorado.

2.1.62. "Owner" or **"Unit Owner"** means the Declarant or any other Person who owns record title to a Unit (including a contract seller, but excluding a contract purchaser), exclusive of any Person having a Security Interest in a Unit unless such Person has acquired record title to the Unit pursuant to foreclosure or any proceedings in lieu of foreclosure, and "Owners" or "Unit Owners" means the subject Persons described above.

2.1.63. "Owner Related Party" means an officer, director, partner, manager, member, employee, agent, contractor, subcontractor, customer, representative and/or Guest of Owner.

2.1.64. "Parking Easement" means the Easement described by reference to the Official Records in Exhibit B-3 attached hereto and incorporated herein by reference, as amended or supplemented from time to time, which Parking Easement grants and conveys rights to (i) construct certain underground parking improvements, and (ii) maintain, access and use such improvements.

2.1.65. "Parking Unit" means any one of the parking spaces located in the Project and identified on the Condominium Map with a Unit designation beginning with "P", and one or more Parking Units may, at Declarant's option, contain a private, fenced-in storage area.

2.1.66. "Parking Unit Assessment" means the Assessment levied against a Parking Unit, and **"Parking Units Assessments"** means the Assessments generally levied against all Parking Units.

2.1.67. "Parking Unit Owners Class" has the meaning ascribed in Subsection 8.2.5 below.

2.1.68. "Period of CTOA Ownership " has the meaning ascribed in Subsection 11.7.2 below.

2.1.69. "Person" means any natural person, corporation, partnership, limited liability company, association, trust, trustee, governmental or quasi-governmental entity or any other entity having the right to hold title to Real Estate.

2.1.70. "Plat" means that part of a Declaration that is a land survey plat as set forth in Section 38-51-102, Colorado Revised Statutes, as amended, which depicts all or any portion of the Project in two dimensions, is executed by the Declarant and is recorded in the Official Records.

2.1.71. "Property" has the meaning ascribed in Recital A above and includes any real property that is later made subject to this Declaration in accordance with the terms and conditions of this Declaration.

2.1.72. "Purchaser" means a Person, other than Declarant or a Successor Declarant, who acquires legal title to the fee simple interest in any Unit.

2.1.73. "Real Estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures and other improvements and interests that, by custom, usage or Law, pass with the conveyance of land though not described in the contract of sale or instrument of conveyance. "Real Estate" includes parcels with or without Horizontal Boundaries and spaces that may be filled with air or water.

2.1.74. "Residential Unit" means any one of the residential units located in the Project and identified on the Condominium Map with a Unit designation beginning with "R".

2.1.75. "Residential Unit Assessment" means the Assessment levied against a Residential Unit, and "**Residential Units Assessments**" means the Assessments generally levied against all Residential Units.

2.1.76. "Residential Unit Owners Class" has the meaning ascribed in Subsection 8.2.5 below.

2.1.77. "Rights Reserved by Declarant" means all of those certain Development Rights, Special Declarant Rights, Additional Reserved Rights and any and all other such rights reserved by the Declarant under this Declaration, the other Condominium Documents and the Act.

2.1.78. "Rules and Regulations" means any requirements or standards promulgated by the Board for the management, preservation, safety, control and orderly operation of the Project in order to effectuate the intent and to enforce the obligations, set forth in the Condominium Documents, as amended or supplemented from time to time, including, without limitation, the General Rules and Regulations and Interior Unit Building Design and Construction Rules and Regulations.

2.1.79. "Security Interest" means an interest in Real Estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The terms includes a lien created by a Mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association and any other consensual lien or title retention contract intended as security for an obligation. The holder of a Security Interest includes any insurer or guarantor of a Security Interest. Any holder of a Security Interest on the Property which is recorded in the Official Records prior to the recordation of this Declaration shall, upon execution of a Mortgagee's Consent to the Declaration, become the holder of a Security Interest on all Units created by the Declaration which are owned by Declarant. Any such holder of a Security Interest on the Property which has priority over all other Security Interests on the Property shall become a First Mortgagee on such Units.

2.1.80. "Special Assessment" has the meaning ascribed in Section 17.3 below.

2.1.81. "Special Declarant Rights has the meaning ascribed in Section 24.1 below.

2.1.82. "Storage Unit" means any one of the storage units located in the Project and identified on the Condominium Map with a Unit designation beginning with "S".

2.1.83. "Storage Unit Assessment" means the Assessment levied against a Storage Unit, and "**Storage Units Assessments**" means the Assessments generally levied against all Storage Units.

2.1.84. "Storage Unit Owners Class" has the meaning ascribed in Subsection 8.2.5 below.

2.1.85. "Successor Declarant" means any Person who succeeds to all or substantially all of the Rights Reserved by Declarant.

2.1.86. "Successor Declarant Related Party" means an officer, director, partner, manager, member, employee, agent, contractor, subcontractor, customer, invitee and/or representative of Successor Declarant.

2.1.87. **"Unit"** means a physical portion of the Project that:

A. is created by this Declaration and the Condominium Map;

B. is designated for separate ownership or occupancy; and

C. has boundaries that are described in or determined by this Declaration and/or shown on the Condominium Map.

Each Unit shall be designated by a separate number, letter, address or other symbol or combination thereof that identifies only one Unit in the Project as more specifically set forth on Exhibit C attached hereto and incorporated herein by reference, as amended or supplemented from time to time. If walls, floors or ceilings are designated as boundaries of a Unit in this Declaration, 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 a part of the Unit and all other portions of the walls, floors or ceilings are a part of the Common Elements. Subject to this Declaration, all spaces, interior partitions and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

2.1.88. **"Utility Easements"** means the Easements described by reference to the Official Records in Exhibit B-4 attached hereto and incorporated herein by reference, as amended or supplemented from time to time, which Utility Easements grant and convey rights to install, use, repair and maintain certain utilities.

2.1.89. **"Unit Buildout"** means undertaking and completing the construction and finish-out of a Residential Unit or a Commercial Unit.

2.2. **Gender and Number.** Wherever the context of this Declaration so requires: (i) words used in this masculine gender shall include the feminine and neuter genders; (ii) words used in the neuter gender shall include the masculine and feminine genders; (iii) words used in the feminine gender shall include the masculine and neuter genders; (iv) words used in the singular shall include the plural; and (v) words used in the plural shall include the singular.

ARTICLE III
ESTABLISHMENT OF CONDOMINIUM OWNERSHIP

3.1. **Division Into Units.**

3.1.1. Declarant initially creates ten (10) Residential Units, three (3) Commercial Units, forty (40) Parking Units and seven (7) Storage Units within the Project, the boundaries and identifying numbers of which are herein identified and/or shown on the Condominium Map.

3.1.2. Declarant reserves the right to create twenty (20) additional Units within the Project, the boundaries and identifying numbers of which shall be designated on the Condominium Map (the "Maximum Number of Units"). Except as provided in this Declaration, in the event of any conflict between any provisions of this Declaration and depictions contained on the Condominium Map with respect to any Unit boundary, the depictions on the Condominium Map shall control.

3.1.3. The following are designated as boundaries of each Residential Unit, Commercial Unit and Storage Unit:

A. The upper horizontal boundary of each Residential Unit, Commercial Unit and Storage Unit is the horizontal plane of the bottom surface of the lower of: (i) the unfinished joists, or (ii) any common structure, mechanical, plumbing, fire safety and/or electrical improvement(s), extended to an intersection with the vertical perimeter boundaries, or (iii) the bottom surface of the drywall.

B. The lower horizontal boundary of each Residential Unit, Commercial Unit and Storage Unit is the horizontal plane of the unfinished surface of the concrete, gypcrete or plywood subflooring, extended to an intersection with the vertical perimeter boundaries.

C. The vertical perimeter boundaries of each Residential Unit, Commercial Unit and Storage Unit are the planes defined by the (i) unfinished interior surface face of studs and framing, or (ii) face of concrete on all demising and exterior walls, extended to an intersection with the horizontal perimeter boundaries.

D. Except as provided in Subsection 3.1.3.C. above, each such Unit shall be bounded by the walls, floor and ceiling surrounding such Unit; provided, any drywall, studs, paneling, tiles, wallpaper, painting, finished flooring and other materials installed within the airspace comprising any such Unit shall not constitute part of the Unit nor shall they be Common Elements. Such materials shall instead constitute personal property of the Owner of such Unit, regardless of the manner of installation, and the Owner (as opposed to Declarant or the Association unless such Unit is owned by Declarant or the Association) shall be responsible for the initial installation of such items, for the maintenance and repair thereof and for replacement thereof in the event of a casualty or condemnation.

3.1.4. The designated boundaries of each Parking Unit shall be defined as an imaginary line extending from the center of the line created by its boundary as depicted on the Condominium Map, which line shall be extended upwards ninety (90) degrees from the Parking Unit boundary to the area that is the lesser of: (i) eight (8) feet; or (ii) the intersection of such imaginary line with the vertical perimeter boundaries of any common structure, mechanical, plumbing, fire safety and/or electrical improvement(s) or the area of any Easements or Common Elements.

3.2. Delineation of Unit Boundaries. The boundaries of each Unit are delineated and designated by an identifying number on the Condominium Map.

3.3. Inseparability of Unit. Except as provided in Section 3.5 below, and in the Article entitled "Rights Reserved by Declarant": (i) no part of a Unit or of the legal rights comprising ownership of a Unit may be partitioned or separated from any other part thereof during the period of condominium ownership prescribed in this Declaration; (ii) each Unit shall always be conveyed, transferred, devised, bequeathed, encumbered and otherwise affected only as a complete Unit; and (iii) every conveyance, transfer, gift, devise, bequest, encumbrance or other disposition of a Unit or any part thereof shall be presumed to be a disposition of the entire Unit, together with all appurtenant rights and interests created by Law or by this Declaration, including the Unit Owner's membership in the Association.

3.4. Non-partitionability of Common Elements. The Common Elements shall be owned in common by all of the Unit Owners and shall remain physically undivided, and no Unit Owner shall bring any action for partition or division of the Common Elements. By acceptance of a deed or other instrument of conveyance or assignment to a Unit, each Unit Owner shall be deemed to have specifically waived such Unit Owner's right to institute or maintain a partition action or any other cause of action designed to cause a division of the Common Elements, and this Section may be pleaded as a bar to the maintenance of any such action. Any

Unit Owner who shall institute or maintain any such action shall be liable to the Association, and hereby agrees to reimburse the Association, for the Costs of Enforcement in defending any such action.

3.5. Alterations and Subdivision of Units, Relocation of Boundaries Between Adjoining Units. Unit Owners shall have the right to alter the interior of their Units, but shall not have the right to subdivide their Units, relocate boundaries between a Unit and an adjoining Unit or to reallocate Limited Common Elements between or among Units.

3.6. Units Subject to Easements. The Units are created, and shall be owned and used, subject to and in accordance with, the terms, conditions, requirements, rights, duties and obligations set forth in the Easements.

ARTICLE IV
ALLOCATED INTERESTS

4.1. Allocation of Interests. The Allocated Interests assigned to each Unit are set forth on Exhibit C hereto. The interests have been allocated in accordance with the formulas set out in Section 4.2 below. These formulas are to be used in reallocating interests if Units are added to the Project or if Units are converted to General Common Elements or Limited Common Elements.

4.2. Formulas for the Allocation of Interests. The interests allocated to each Unit have been calculated by the following formulas:

4.2.1. Undivided Interest in the General Common Elements. The interest in General Common Elements appurtenant to each of the Units of the Project is set forth on Exhibit C attached hereto. The percentages specified on Exhibit C have been derived by the application of the formula described in Subsection 4.2.2 below to the projected Area of each such Unit based on as-built plans for the Project. If by reason of any reconfiguration of the Project, including, without limitation, resulting from a practical or legal inability to make a full restoration of the Project following a casualty or a partial condemnation, or the addition or withdrawal of Units from the Project, or if the Area of one or more Units is increased or decreased, the interest in General Common Elements for all like Units (i.e., all Residential Units if the Unit is a Residential Unit or all Parking Units if the Unit is a Parking Unit) within the Project after such change shall be recalculated in accordance with the following formula (provided, notwithstanding any other provision of this Declaration to the contrary, during the Period of CTOA Ownership, the Area within the CTOA Parking Spaces shall be excluded from the formula and, except as provided in Subsection 11.7 below, all costs and expenses related to repair and maintenance of the CTOA Parking Spaces shall be payable, pro rata, by the other Parking Unit Owners).

4.2.2. Formula.

$$\text{Interest in General Common Elements} = \frac{\text{(Area of the Unit*)}}{\text{(Total Area of all Units*)}} \times 100\%^{**}$$

*Commercial Unit, Parking Unit, Residential Unit or Storage Unit

**less the percentage allocated to other like Units

4.2.3. Limited Common Elements. Except as expressly provided to the contrary in this Declaration, the allocation of the Limited Common Elements shown on the Condominium Map or by operation of law may not be altered without the consent of all Class Owners whose Units would be affected by such

reallocation, and then only in accordance with the terms and conditions of this Declaration and, as applicable, the Act; provided, a Limited Common Element may be further defined, limited and allocated solely by Declarant during the Declarant Control Period and, thereafter, by the Board in connection with its determination of actual use applicable to any Unit.

4.2.4. **Voting.** The vote allocated to each Unit is set forth on Exhibit C hereto. Any specified percentage, portion or fraction of Unit Owners, unless otherwise stated in the Condominium Documents, means the specified percentage, portion or fraction of all of the votes as allocated in Exhibit C hereto.

4.2.5. **Rounding Convention.** The total of any Allocated Interests stated as a fraction, shall be rounded up to the nearest one percent (1%), and shall be deemed to be equal to one hundred percent (100%) for purposes of this Declaration.

4.2.6. **Effective Date of Reallocation.** The effective date for reallocating Allocated Interests to Units as a result of the exercise of Development Rights set forth in Article XXIV of this Declaration shall be the date on which the subject amendment is recorded in the Official Records.

ARTICLE V
CONDOMINIUM MAP

5.1. **Condominium Map.** The Condominium Map shall be filed in the Official Records. Any amendment or supplement to the Condominium Map filed subsequent to the initial filing of the Condominium Map shall be termed a supplement to such Condominium Map, and the numerical sequence of such supplements shall be shown thereon. The Condominium Map shall be filed following substantial completion of the Improvements depicted on the Condominium Map and prior to the conveyance of any Unit depicted on the Condominium Map to a purchaser. The Condominium Map shall include a Plat which shows the following:

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

5.1.2. the location and dimensions of the Project and the location and dimensions of all existing Improvements;

5.1.3. a legally sufficient description of any Real Estate subject to Development Rights, labeled to identify the rights applicable to it;

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; and

5.1.6. the distance between any noncontiguous parcels of Real Estate comprising the Project.

5.1.7. The Condominium Map shall also show the following:

A. the location and dimensions of the vertical boundaries of each Unit and that Unit's identifying number;

B. horizontal Unit boundaries, if any, with reference to all established data and that Unit's identifying number;

C. any Units in which the Declarant has reserved the right to create additional Units or Common Elements, identified appropriately;

D. the approximate location and dimensions of the General Common Elements and the Limited Common Elements; and

E. the number, size and location of any sales offices, management offices and models to be maintained by Declarant.

5.1.8. The Condominium Map shall contain a certificate of a registered and licensed land surveyor certifying that the Condominium Map was prepared subsequent to the substantial completion of the improvements and contains all information required by this Declaration and the Act. Each supplement shall set forth a like certificate when appropriate. In interpreting the Condominium Map, the existing physical boundaries of each separate Unit as constructed shall be conclusively presumed to be its boundaries.

ARTICLE VI
LEGAL DESCRIPTION AND TAXATION OF UNITS

6.1. Contracts to Convey Entered into Prior to Recording of Condominium Declaration and Condominium Map. A contract or other agreement for the sale of a Unit entered into prior to the filing of this Declaration in the Official Records may legally describe such Unit in substantially the manner set forth in this Article VI and may indicate that this Declaration and Condominium Map are to be recorded.

6.2. Contracts to Convey and Conveyances Subsequent to Recording of Declaration and Condominium Map. Subsequent to the recording of the Declaration and Condominium Map, contracts to convey, instruments of conveyance of Units, and every other instrument affecting title to a Unit, shall be in substantially the following form with such omissions, insertions, recitals of fact or other provisions as may be required by the circumstances or appropriate to conform to the requirements of any governmental authority, practice or usage or requirement of Law with respect thereto:

> Unit __, according to the Declaration of Grants, Covenants, Conditions and Restrictions for Heritage Crossing at the Gondola Condominiums recorded _____, 2002, at Reception No. _____, in Book ____ at page _____ and the Condominium Map of Heritage Crossing at the Gondola Condominiums, recorded _____, 2002, in Plat Book ____ at page _____ in the office of the Clerk and Recorder of San Miguel County, Colorado.

6.3. Conveyance Deemed to Describe an Undivided Interest in Common Elements. Every instrument of conveyance, Security Interest or other instrument affecting the title to a Unit which legally describes the Unit substantially in the manner set forth above shall be construed to describe the Unit, together with the undivided interest in the Common Elements appurtenant to it, and together with all fixtures and improvements contained in it, and to incorporate all the rights incident to ownership of a Unit and all the limitations of ownership as described in the covenants, conditions, restrictions, easements, reservations, rights-of-way and other provisions contained in this Declaration, including the easement of enjoyment to use the Common Elements.

6.4. Separate Tax Assessments. Upon the filing for record of this Declaration and the Condominium Map in the Official Records, Declarant shall deliver a copy of this Declaration to the assessor

of each county specified in the Official Records as provided by Law. The lien for taxes assessed shall be confined to the Unit(s). No forfeiture or sale of any Unit for delinquent taxes, assessments or other governmental charge shall divest or in any way affect the title to any other Unit.

ARTICLE VII
UNIT OWNERS' PROPERTY RIGHTS IN COMMON ELEMENTS

7.1. **General Common Elements.** Every Unit Owner shall have a perpetual right and easement of access over, across and upon the Common Elements, but not the Limited Common Elements, for the purpose of access to and from the Unit from public ways for both pedestrian and vehicular travel, which right and easement shall be appurtenant to and pass with the transfer of title to such Unit; provided, however, that such right and easement shall be subject to the following:

7.1.1. the covenants, conditions, restrictions, easements, reservations, rights-of-way, and other provisions contained in this Declaration, the Condominium Map and the other Condominium Documents;

7.1.2. the right of the Association from time to time to assign on an equitable basis portions of the Common Elements for the exclusive use of the Unit Owner of a particular Unit by an appropriate instrument in writing;

7.1.3. the right of the Association to adopt, from time to time, any and all rules and regulations concerning vehicular traffic and travel upon, in, under and across the Project, inclusive of Easements property; and

7.1.4. the right of the Association to adopt, from time to time, any and all rules and regulations concerning the Project as the Association may determine is necessary or prudent for the management, preservation, safety, control and orderly operation of the Project for the benefit of all Unit Owners, and for facilitating the greatest and most convenient availability and use of the Units and Common Elements by Unit Owners.

7.2. **Limited Common Elements.** Subject to the provisions of this Declaration, every Unit Owner shall have the right to use and enjoy the Limited Common Elements appurtenant to his Unit.

ARTICLE VIII
MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

8.1. **Association Membership.** The Articles shall be filed no later than the date the first interest in a Unit in the Project is conveyed to a purchaser. Every Unit Owner shall be a Member of the Association and shall remain a Member for the period of the Unit Owner's ownership of a Unit. No Unit Owner, whether one or more Persons, shall have more than one Membership per Unit owned, but all of the Persons owning a Unit shall be entitled to rights of Membership and of use and enjoyment appurtenant to ownership of a Unit. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit. If title to a Unit is held by more than one Person, such Persons shall appoint and authorize one Person or alternate Persons to represent the Unit Owners of the Unit. Such representative shall be a natural person who is a Unit Owner, or a designated board member or officer of a corporate Unit Owner, or a general partner of a partnership Unit Owner, or a comparable representative of any other entity, and such representative shall have the power to cast votes on behalf of the Unit Owners as a Member of the Association, and serve on the Board if elected, subject to the provisions of and in accordance with procedures more fully described in the Bylaws. Notwithstanding the foregoing, if only one of the multiple Unit Owners of a Unit is present at a

meeting of the Association, such Unit Owner is entitled to cast the vote allocated to that Unit. If more than one of the multiple Unit Owners are present and there is no written designation of an authorized representative, the vote allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the Unit Owners, which majority agreement may be assumed for all purposes if any one of the multiple Unit Owners casts the vote allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other Unit Owners of the Unit.

8.2. Voting Rights and Meetings. Each Unit in the Project shall have the votes allocated by this Declaration; provided, however, no vote allocated to a Unit owned by the Association may be cast. A meeting of the Association shall be held at least once each year. Special meetings of the Association may be called by the President, by a majority of the Board, or by Unit Owners having twenty percent (20%), or any lower percentage specified in the Bylaws, of the votes in the Association. Not less than fourteen (14) and no more than fifty (50) days in advance of any meeting, the Secretary or other officer specified in the Bylaws shall cause notice to be hand delivered or sent prepaid by United States Mail to the mailing address of each Unit Owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to this Declaration or Bylaws, any budget changes and any proposal to remove an officer or member of the Board. Unless the Bylaws provide for a lower percentage, a quorum is deemed present throughout any meeting of the Association if persons entitled to cast twenty percent (20%) of the votes which may be cast for election of the Board are present, in person or by proxy, at the beginning of the meeting.

8.2.1. 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.

8.2.2. Except as expressly provided to the contrary herein or in the Articles or the Bylaws, the Association shall not be empowered nor entitled to amend, modify, terminate or extend this Declaration or the Condominium Map or any provision of either without the consent of seventy-five percent (75%) of the votes entitled to be cast by the Members or, during the Declarant Control Period, Declarant's written consent.

8.2.3. Notwithstanding any provision in this Declaration, the Articles or the Bylaws to the contrary, the Association shall not be entitled or empowered to do any of the following during the Declarant Control Period without obtaining the prior, written consent of Declarant:

A. exercise any responsibility or control with respect to Improvements design review;

B. amend, modify, terminate or extend any of the Condominium Documents;

C. prepare annual Association budgets;

D. undertake or perform any of the Rights Reserved by Declarant or any of the acts listed in Subsection 10.3.2 below;

E. transfer Common Elements; or

F. adopt a plan for reconstruction or sale.

8.2.4. Except to the extent expressly authorized herein, the rights, interests and obligations of the Association set forth or reserved herein may not be transferred or assigned to any Person, and no such transfer or assignment shall relieve the Association of any of its obligations stated herein or operate to revoke, amend or modify any of the rights or obligations of any Owner stated herein.

8.2.5. Without limiting the right or ability of the Board to designate additional future classes of Owners (each a "Class" and, collectively, the "Classes"), the Project shall initially consist of four Classes of Unit Owners, as follows:

A. the "Commercial Unit Owners Class" consisting of all the Owners of the Commercial Units;

B. the "Parking Unit Owners Class", consisting of all the Owners of the Parking Units;

C. the "Residential Unit Owners Class", consisting of all the Owners of the Residential Units; and

D. the "Storage Unit Owners Class", consisting of all the Owners of the Storage Units.

With respect to any required vote or authorization, the Board, acting in its sole but reasonable discretion, shall (i) determine if the subject vote or authorization affects all or only some of the Unit Owners (as determined by reference to, among other things, an Owner's right of use relating to the Property or right in question, an Owner's obligation to pay Common Expenses and/or Assessments relating thereto, and an Owner's vested rights hereunder), and (ii) if less than all of the Owners will be affected by the outcome of such vote or authorization, the Board may (A) determine the Class of Owners which will be so affected, and (B) direct that such required vote or authorization be submitted only to such affected Class of Owners. In any vote by Class, each Unit Owner within such Class shall be entitled to one vote.

8.2.6. In any election of Directors to the Board, (i) the Owner or Owners of each (a) Residential Unit shall be entitled to cast one vote for each Residential Director to be elected and one vote for each at-large Director to be elected, and (b) Commercial Unit shall be entitled to cast one vote for each Commercial Director to be elected and one vote for each at-large Director to be elected; and (ii) Owner or Owners of a Parking Unit and/or Storage Unit shall be entitled to cast one vote for each at-large Director. The candidate(s) receiving the highest number of votes by Owner Class, if applicable (regardless of whether any candidate receives a Majority) shall be deemed elected.

8.3. **Meeting to Approve Annual Budget.** At the annual meeting of the Association or at a special meeting of the Association called for such purpose, the Unit Owners shall be afforded the opportunity to ratify a budget of the projected revenues, expenditures (both ordinary and capital) and reserves for the Association's next fiscal year as proposed by the Board. A summary of the proposed budget approved by the Board shall be mailed to the Unit Owners within thirty (30) days after its adoption along with a notice of a meeting of the Association to be held not less than fourteen (14) nor more than fifty (50) days after mailing of the summary to the Unit Owners. Unless at the meeting a Majority of Owners, rather than a majority of those present and voting in person or by proxy, reject the proposed budget, the budget is ratified whether or not a quorum is present at the meeting. In the event the proposed budget is rejected, the budget last ratified by the Unit Owners shall continue in effect until such time as the Unit Owners ratify a subsequent budget proposed by the Board as provided above.

8.4. Unit Owners' and Association's Addresses for Notices. All Unit Owners of a Unit shall have one and the same registered mailing address to be used by the Association or other Unit Owners for notices, demands and all other communications regarding Association matters. The Unit Owner or representative of the Unit Owners of a Unit shall furnish such registered address to the secretary of the Association within ten (10) days after transfer of title to the Unit to such Unit Owner or Unit Owners. Such registration shall be in written form and signed by all of the Unit Owners of the Unit or by such Person(s) authorized to represent the interests of all Unit Owners of the Unit. If no address is registered or if all of the Unit Owners cannot agree, then the address of the Unit shall be deemed their registered address until another registered address is furnished as required under this Section 8.4. If the address of the Unit is the registered address of the Unit Owner(s), then any notice shall be deemed duly given if delivered to any Person occupying the Unit or, if the Unit is unoccupied, if the notice is held and available for the Unit Owners at the principal office of the Association. All notices and demands intended to be served upon the Board shall be sent to the Project or such other address as the Board may designate from time to time by notice to the Unit Owner(s).

8.5. Transfer Information. All Persons who acquire Units, other than from Declarant, shall provide to the Association written notice of the Person's name, address, Unit owned, date of transfer and name of the former Unit Owner within ten (10) days of the date of transfer. Such Persons shall also provide a true and correct copy of the recorded instrument conveying or transferring the Unit or such other evidence of the conveyance or transfer as is reasonably acceptable to the Association. In addition, the Association may request such other information as the Association determines is necessary or desirable in connection with obtaining and maintaining information regarding conveyances and transfers of Units. The Association or Managing Agent shall have the right to charge the Person a reasonable administrative fee for processing the transfer in the records of the Association.

ARTICLE IX
ASSOCIATION POWERS AND DUTIES

9.1. Association Management Duties. Subject to the rights and obligations of Declarant and other Unit Owners as set forth in this Declaration, the Association shall be responsible for the administration and operation of the Project and for the exclusive management, control, maintenance, repair, replacement and improvement of the Common Elements and the Limited Common Elements, and shall keep the same in good, clean, attractive and sanitary condition, order and repair. The expenses, costs and fees of such management, operation, maintenance and repair by the Association shall be paid through Assessments, and prior approval of the Unit Owners shall not be required in order for the Association to incur or pay any such expenses, costs and fees. The Association shall establish and maintain, out of the installments of the annual Assessments, an adequate reserve account for maintenance, repair or replacement of those Common Elements that must be replaced on a periodic basis. The Association shall adopt and amend budgets for revenues, expenditures and reserves which will be the basis for collection of Assessments from Unit Owners.

9.2. Association Powers. The Association shall have, subject to the limitations contained in this Declaration and the Act, the powers necessary for the administration of the affairs of the Association and the upkeep of the Project which shall include, but shall not be limited to, the power to:

9.2.1. adopt and amend the Bylaws and Rules and Regulations;

9.2.2. adopt and amend budgets for revenues, expenditures and reserves;

9.2.3. collect Assessments from Owners;

9.2.4. expend monies collected pursuant to Section 9.5 for the benefit of the Project;

9.2.5. hire and discharge Managing Agents;

9.2.6. hire and discharge employees and agents, other than Managing Agents, and independent contractors;

9.2.7. institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Declaration, Bylaws or Rules and Regulations in the Association's name on behalf of the Association or two or more Unit Owners on matters affecting the Project;

9.2.8. make contracts and incur liabilities;

9.2.9. regulate the use, maintenance, repair, replacement and modification of the Common Elements;

9.2.10. cause additional improvements to be made as part of the Common Elements;

9.2.11. acquire, hold, encumber and convey in the Association's name any right, title or interest to Real Estate or personal property (provided, Common Elements may be conveyed or subjected to a Security Interest only pursuant to the requirements of the Act);

9.2.12. grant easements, including permanent easements, leases, licenses and concessions, through or over the Common Elements;

9.2.13. impose and receive a payment, fee or charge for the use, rental or operation of the Common Elements, other than Limited Common Elements, and for services provided to Unit Owners;

9.2.14. impose a reasonable charge for late payment of Assessments, recover Costs of Enforcement for collection of Assessments and other actions to enforce the powers of the Association, regardless of whether or not suit was initiated and, after notice and hearing, levy reasonable fines for violations of this Declaration and the other Condominium Documents;

9.2.15. impose a reasonable charge for the preparation and recordation of amendments to this Declaration and the Condominium Documents or for preparation of statements of unpaid Assessments;

9.2.16. provide for the indemnification of the Association's officers and Board and maintain directors', officers' and employees' liability insurance;

9.2.17. assign the Association's right to future income, including the right to receive Assessments;

9.2.18. by resolution, establish committees of the Board and/or Unit Owners, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee;

9.2.19. exercise any other powers conferred by this Declaration and the other Condominium Documents;

9.2.20. exercise any other power that may be exercised in Colorado by legal entities of the same type as the Association; and

9.2.21. exercise any other power necessary and proper for the governance and operation of the Association.

9.3. Determination by Board. Unless otherwise expressly provided herein, any determination to be made by the Association or the Board shall be made by the Association or Board, as applicable, in its sole but reasonable discretion.

9.4. Right to Notice and Hearing. Whenever the Condominium Documents require that an action be taken after "notice and hearing", the following procedure shall be observed: The Person proposing to take the action on behalf of the Association (i.e., the Board, a committee, an officer or the Managing Agent) shall give notice of the proposed action to all Unit Owners whose interests the proposing party reasonably determines would be significantly affected by the proposed action. The notice shall be delivered personally or mailed not less than three (3) days before the proposed action is to be taken. The notice shall include a general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected Person shall have the right, personally or by a representative, to give testimony orally, in writing or both, subject to reasonable rules of procedure established by the party conducting the hearing to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision, but shall not bind the decision maker(s). The affected Person shall be notified of the decision in the same manner in which notice of the hearing was given. Any Unit Owner having a right to notice and hearing shall have the right to appeal to the Board from a decision of a proposing party other than the Board by filing a written notice of appeal with the Board within ten (10) days after being notified of the decision. The Board shall conduct a hearing within forty-five (45) days, giving the same notice and observing the same procedures as were required for the original hearing.

9.5. Payments to Working Capital Account and Reserves Funds. In order to (i) provide the Association with adequate working capital funds, (ii) maintain adequate funds for replacement of capital items, and/or to reimburse Declarant for loans to the Association, as applicable, the Association may collect from each Purchaser at the time of the initial sale of each Unit by Declarant an amount equal to one-half (1/2) of the applicable annual Assessments based on the Association budget in effect at the time of the such sale. Such payments shall not be considered advance payments of annual Assessments.

9.6. Association as Attorney-in-Fact. The title to each Unit is hereby declared, and expressly made, subject to the terms and conditions of this Declaration, and each Purchaser's acceptance of a deed or other instrument of conveyance to a Unit or interest therein constitutes such Purchaser's irrevocable appointment of the Association as the Purchaser's attorney-in-fact for the purposes stated in this Section 9.6, and the Association, as such Person's true and lawful attorney in his, her or its name and place, 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 such Purchaser as the Owner of a Unit for the purposes expressly set forth in this Section 9.6, and (ii) unless expressly limited by the Act, execute, deliver and file of record in the Official Records such instruments, deeds, Condominium Maps and Declaration amendments and supplements as are necessary or desirable for the purposes expressly set forth herein. Each power of attorney granted under this Section 9.6: (a) is a special power of attorney coupled with an interest and is irrevocable; (b) may be exercised by the Association by listing all of the principals executing any agreement, certificate, instrument or document with the single signature of such attorney-in-fact acting as attorney-in-fact for all of them; (c) shall survive and not be affected by the subsequent death, disability, incapacity, insolvency or bankruptcy of the grantor of the power; and (d) shall survive termination of this Declaration through winding up to termination of the Association.

9.6.1. The Association is hereby designated as each Purchaser's attorney-in-fact to (i) execute and record amendments and/or supplements to this Declaration and the Condominium Map, and (ii) to deal with the Project upon its destruction, obsolescence, repair or reconstruction or condemnation. In the event the Project is sold by the Association, as attorney-in-fact, pursuant to the provisions of the Act, the Association shall record a notice in the Official Records which sets forth the circumstances of such sale and this Declaration shall wholly terminate and expire upon the recording of such notice.

9.6.2. Nothing contained in this Article shall limit, condition or otherwise constrain the right of Declarant to exercise any of the Rights Reserved by Declarant nor shall the provisions of this Article affect the manner in which Declarant may exercise the Rights Reserved by Declarant.

9.7. Books and Records. The Association shall keep financial records sufficiently detailed to enable the Association to comply with the requirement that it provide statements of status of Assessments. Within a reasonable time after written request and subject to reasonable conditions, the Association shall allow Owners, Mortgagees and their authorized agents to inspect current copies of the Condominium Documents and the books, records, budgets and financial statements of the Association during official business hours. The Association may charge a reasonable fee for copying such materials, and may require any Person seeking to inspect such records to enter into a confidentiality agreement with the Association to insure that such records will be used solely to advance the legitimate interests (in relation to the Project) of the Owner or Mortgagee by whom or on whose behalf such records are sought.

ARTICLE X
BOARD OF DIRECTORS

10.1. Number and Election of Directors.

10.1.1. The Board shall consist of three (3) directors (each a "Director" and, collectively, the "Directors"). Except for Directors appointed by Declarant during the Declarant Control Period, each Director must either be an Owner or be a Person designated in writing by an Owner that is a natural person to represent such Owner.

10.1.2. The terms of all Directors appointed by Declarant during the Declarant Control Period shall terminate thirty (30) days after expiration of the Declarant Control Period (or earlier if Declarant voluntarily surrenders the right to appoint and remove Directors as provided herein). The term of office of any Director elected to the Board by Owners other than Declarant shall also terminate at such time.

10.1.3. Within thirty (30) days after expiration of the Declarant Control Period, the Board shall call a special meeting of the Owners to elect new Directors who are to take office at the end of such terms. Of the three (3) Directors so elected by the Owners: (i) one shall serve for a term of one year (or, if less than one year, until the next annual meeting of Members); (ii) one shall be an Owner of a Commercial Unit and shall serve for a term of two years (or, if less than two years, until the next subsequent annual meeting of Members); and (iii) one shall be an Owner of a Residential Unit and shall serve for a term of three years (or, if less than three years, until the second subsequent annual meeting of Members). Thereafter, one or more Directors shall be elected at each annual meeting of Members and each Director shall serve for a term of three (3) years.

10.2. Actions by Board. Except as specifically otherwise provided in this Declaration, the Bylaws or the Act, the Board may act in all instances on behalf of the Association. All meetings of the Board at which action is to be taken by vote will be open to the Unit Owners, except that meetings of the Board may be held

in executive session(s), without giving notice and without the requirement that they be open to Unit Owners, in the following situations:

10.2.1. matters pertaining to employees of the Association or involving the employment, promotion, discipline or dismissal of an officer, agent, or employee of the Association;

10.2.2. consultation with legal counsel concerning disputes that are the subject of potential or pending court proceedings or matters that are privileged or confidential between attorney and client;

10.2.3. investigative proceedings concerning possible or actual criminal misconduct;

10.2.4. matters subject to specific constitutional, statutory or judicially imposed requirements protecting particular proceedings or matters from public disclosure; and

10.2.5. any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.

10.3. Powers of the Board.

10.3.1. Except as provided in this Declaration, the Articles and the Bylaws, and except for the exercise of Rights Reserved by Declarant, the Board shall act on behalf of the Association in all instances.

10.3.2. Notwithstanding Subsection 10.3.1 above, the Board may not act on behalf of the Association to (i) amend this Declaration; (ii) except as expressly provided in Section 9.6.1, terminate the Association, this Declaration or the community established hereby; (iii) elect Directors to the Board, other than to fill a vacancy for the unexpired portion of any Director's term, subject to Declarant's rights under Section 10.4 below and the Rights Reserved by Declarant; or (iv) determine the qualifications, powers and duties, or terms of office, of Directors.

10.4. Declarant Control Period.

10.4.1. Subject to the terms and conditions of Subsection 10.4.2 below, and notwithstanding anything to the contrary in this Declaration or in any applicable Condominium Document, Declarant shall have the exclusive right to appoint and remove all Directors and officers during the Declarant Control Period. The phrase "Declarant Control Period" means the period which commences on the date on which Declarant forms the Association and terminates at 11:59 P.M., Colorado Time, on the earlier to occur of:

A. sixty (60) days after seventy-five (75%) percent of the Residential Units that may be created have been conveyed to Residential Unit Owners other than Declarant or Successor Declarant;

B. two years after the last conveyance of a Unit by Declarant or Successor Declarant in the ordinary course of business; or

C. two years after any right to add new Units was last exercised by Declarant or Successor Declarant.

10.4.2. Declarant may voluntarily surrender Declarant's right to appoint and remove officers and Directors prior to the expiration of the Declarant Control Period, but, in such event, Declarant may require during the remainder of the Declarant Control Period that specific actions of the Association or the Board, as

described in an instrument executed and recorded by Declarant, be approved by in writing by Declarant or Successor Declarant before the same become effective.

ARTICLE XI
OWNERSHIP, USE AND OCCUPANCY

11.1. General Use Restrictions.

11.1.1. Subject to compliance with applicable Laws and Rules and Regulations, an Owner or Guest may keep a maximum of two domesticated dogs and/or cats within the Project so long as such pets are (i) at all times kept within the Unit or on a leash, and (ii) not excessively noisy, destructive or unruly. Owners and Guests shall clean up after their pets. Commercial pet operations and activities are prohibited.

11.1.2. Neither the Common Elements nor any portion of a Unit which is visible from the exterior (i.e., a door or window) shall be altered in appearance or modified without the prior, written consent of the Association.

11.1.3. No unsightly object or nuisance shall be erected, placed or permitted to remain on or at a Unit or Common Element, nor shall a Unit or Common Element be used in any way for any purpose which may endanger the health of, or unreasonably disturb, an Owner or Guest.

11.1.4. No nuisance, or 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 an Owner, is permitted in the Project.

11.1.5. 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.

11.1.6. No Owner shall permit any use of a Unit or make any use of a Common Element which will unreasonably increase insurance rates upon Project property.

11.1.7. Storage of combustible or dangerous materials is not permitted in the Project without obtaining the prior written consent of the Association, which consent shall (i) require compliance with applicable Laws and Rules and Regulations, a written indemnification of the Association, the Project, the other Owners and Declarant and the Declarant Related Parties (if applicable) by the applicant, (ii) conditions relating to safe accommodation of such materials, and (iii) such other conditions imposed, in its sole discretion, by the Association.

11.1.8. Owners and Guests shall not litter, and the burning of trash, garbage and other waste materials is not permitted at the Property.

11.1.9. Unless authorized in writing by the Association and, if applicable, the Town of Mountain Village or other governmental authority with jurisdiction over the Property, no signs whatsoever shall be erected or maintained on the Property, including, without limitation, "For Sale" and "For Rent" signs displayed on the exterior or interior of Units. The Association shall not unreasonably, as determined by the Board in its sole discretion, withhold consent for signage on Commercial Units.

11.1.10. Owner and Guests shall at all times use the Units and Common Elements in accordance with the provisions of this Declaration, all other Condominium Documents and applicable Laws.

11.1.11. Except for work of the Declarant, an Owner shall not alter any mechanical system or structural component in the Project nor the exterior appearance or dimensions of the Declarant Improvements.

11.1.12. The right of an Owner to sell, transfer or otherwise convey a Unit shall not be subject to any right of first refusal or similar restriction in favor of another Owner of a Unit or the Association, and Units may be sold free of any such restrictions. Nothing herein is intended to limit or negate rights, duties and obligations of Declarant with respect to the transfer and sale of Units pursuant to third party agreement.

11.1.13. There are no restrictions on the right of an Owner to mortgage or otherwise encumber a Unit, but the rights of any Mortgagee pursuant to a Mortgage shall be subject to the provisions of this Declaration.

11.1.14. No Unit may be conveyed pursuant to, or used as part of, a time-sharing arrangement described in §§38-33-110 through 38-33-113 of the Act.

11.1.15. No solid-fuel burning devices shall be used, kept or stored at the Project.

11.1.16. The Town of Mountain Village, Colorado, is intended to be a pedestrian village, and vehicular traffic is restricted therein. Accordingly, each Owner and Guest shall insure that services and deliveries to and from its Unit(s) are effected in accordance with the requirements of, and from locations designated by, the Town of Mountain Village, Colorado, from time to time (including, without limitation, trash removal services).

11.1.17. Unless otherwise directed in writing by the Association, each Owner and Guest shall place all trash and other waste only in waste receptacles located in the basement level of the Project.

11.1.18. No labor performed or materials furnished and incorporated into a Unit with the consent or at the request of an Owner or an Owner Related Party shall be the basis either for filing a lien against the Project or the Unit of any other Owner not expressly requesting or consenting to the same, or against the Common Elements. Each Owner shall indemnify and hold harmless Declarant, each Declarant Related Party, Successor Declarant, each Successor Declarant Related Party, the Association, each other Owner and each Mortgagee from and against all liability arising from any claim or lien against the Project, the Common Elements, another Unit or other property, as applicable, of the indemnified party for construction performed or for labor, materials, services or supplies incorporated in the Owner's Unit or at the Owner's or Owner Related Party's request.

11.2. Ownership and Use of Common Elements.

11.2.1. Except as expressly provided to the contrary in this Declaration, an interest in General Common Elements, the right to use Limited Common Elements and Membership in the Association appurtenant to a Unit may not be partitioned or separated from the Unit or any portion thereof, and any purported conveyance, encumbrance or transfer of an interest in General Common Elements, the right to use Limited Common Elements and/or a Membership in the Association made without the Unit to which the subject interest is appurtenant shall be void.

11.2.2. Each Owner and Guest may use the General Common Elements and Limited Common Elements in accordance with the purpose for which intended so long as such use does not hinder or encroach upon the lawful rights of any other Owner or Guest and such use does not endanger the health or safety of, or unreasonably disturb, another Owner or Guest. Each Owner's and Guest's right to use the Common Elements is subject to the provisions of this Declaration and any instrument creating or granting a right therein.

11.2.3. 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.

11.2.4. No restriction, impairment or interference with any right of ingress or egress provided for in this Declaration shall be permitted at any time without the prior written consent of the Owner thereof and the Board; provided, the exercise of Easements rights, and use of Easements property, is subject to the following:

A. Except for the right to use Easements property for purposes of parking and/or ingress and egress to the Project as stated in the applicable Easements, no Owner or Guest shall exercise any right or privilege of the subject "Grantee" ("Grantee") without obtaining the prior, written consent of such Grantee or the Board, as applicable.

B. As of the Effective Date hereof (for the purposes stated herein, the "Easements Assumption Date"), except for Declarant's or Successor Declarant's continuing construction rights and obligations as developer of the Project, the Association shall assume the rights, duties and obligations of Grantee pursuant to the Easements, including, without limitation, the right and obligation to (i) purchase and maintain insurance, (ii) repair and maintain, or participate in the repair or maintenance of, improvements constructed or located on Easements property, (iii) use the Easements property, and (iv) pay costs and expenses related to use of Easements property (and, unless otherwise provided herein, all such costs and expenses shall be Common Expenses allocable to all Classes of Owners). To the extent allowable by Law, except for the gross negligence or willful misconduct of Declarant, a Declarant Related Party, Successor Declarant or a Successor Declarant Related Party, as established by a final judgment of a court of competent jurisdiction, from and after the Easements Assumption Date, the Association shall indemnify and hold Declarant, each Declarant Related Party, Successor Declarant and each Successor Declarant Related Party harmless from and against any and all loss, claim, damage or expense, including reasonable attorneys' fees and costs of court, from any injury to person or property arising out of, or alleged to arise from, use of Easements property and the acts or omissions of Grantee pursuant to the Easements.

C. As of the Easements Assumption Date, except for the gross negligence or willful misconduct of Declarant, a Declarant Related Party, Successor Declarant or a Successor Declarant Related Party, each Owner shall indemnify and hold Declarant, each Declarant Related Party, Successor Declarant, each Successor Declarant Related Party and the Association, its officers, Directors, managers, members, employees, contractors, subcontractors, agents and representatives, harmless from and against any and all loss, claim, damage or expense, including reasonable attorneys' fees and costs of court, from any injury to person or property arising out of, or alleged to arise from, Owner or a Owner Related Party's use of Easements property.

D. The indemnities set forth in Subsections B and C above shall survive, as applicable, termination, of this Declaration and each Owner's ownership of its Unit.

11.2.5. Nothing shall be altered on, constructed in or removed from the Common Elements without the prior written consent of the Association. Notwithstanding the foregoing, with respect to any structural column which constitutes a Common Element within an Owner's Unit, such Owner may paint the

exterior of the same and/or hang wall decorations thereon; provided, such Owner shall not take any act in any manner which may or does affect the structure or structural integrity thereof.

11.2.6. Notwithstanding any provision of this Declaration to the contrary, except for those Improvements caused to be erected or installed by Declarant during the Declarant Control Period, no exterior additions or alterations shall be made to the Common Elements without the prior, written consent of Declarant and, thereafter, no new construction or alterations to the Common Elements shall be made without the prior written consent of (i) if required, the Town of Mountain Village, Colorado, and any other governmental authority with jurisdiction over the Property, and (ii) Owners of Units holding at least seventy-five percent (75%) of the voting power of the Association or, if applicable, the subject Class.

11.2.7. Following expiration of the Declarant Control Period, the Association shall perform or make, or cause to be performed or made, any construction, alteration, installation or other work on, to or affecting the exterior of any Common Element, as deemed necessary and reasonable by the Association; provided, as between the Association and any Owner or Mortgagee, the Association shall have the exclusive power to determine whether and to what extent the Town of Mountain Village, Colorado, and any other governmental authority with jurisdiction over the Property requires any construction, alteration, installation or other work. The cost of any such work by the Association shall be covered by a Special Assessment or by an increase in the current annual budget, as deemed appropriate by the Board.

11.3. Ownership and Use of Commercial Units.

11.3.1. All facilities and operations within Commercial Units shall comply with Laws applicable thereto. Commercial operations shall be conducted wholly within the confines of Commercial Units unless, following written application to the Association, the Association and, during the Declarant Control Period, Declarant, grants prior written authorization to use of Common Elements for commercial purposes. In the event any such authorization is granted, the authorized Person shall comply with the terms and conditions of such authorization and, as applicable, pay all fees, costs and Assessments relating thereto. Violation of any of the terms of this Section or a written authorization granted pursuant to this Section shall subject the violator to a fine assessed by the Association of up to $500 per day, per infraction, in addition to all other sanctions provided by Law.

11.3.2. The Board and, during the Declarant Control Period, Declarant, may condition any use by, including, without limitation, restricting the hours of operation and requiring the installation of improvements or other facilities designed to minimize noise and/or the dissipation of odors, all on a reasonable basis.

11.3.3. Except as expressly permitted in Section 11.7 below or otherwise pursuant to this Declaration, Commercial Units, including Common Elements appurtenant thereto, shall not be used for any of the following purposes, which uses (including, without limitation, the storage of equipment and facilities associated therewith) are specifically prohibited:

A. bars or lounges (unless associated with a restaurant approved in writing by the Association as provided herein);

B. schools, nurseries or day care centers;

C. gyms or workout facilities;

D. temporary or long-term residence;

E. automotive and vehicular equipment;

F. hardware;

G. building materials;

H. garden supplies;

I. equipment rental (exclusive of ski equipment rental, repair, sales and related uses) and plant materials;

J. laundry or dry-cleaning plants;

K. laundromats;

L. mortuaries;

M. shoe repair;

N. electronic game centers;

O. roller skating establishments;

P. indoor recreation;

Q. service or repair of automobiles;

R. hotel/motel/lodges or boarding;

S. dental and medical clinics;

T. nightclubs or dance halls;

U. massage parlors;

V. adult book and/or video sales or rentals;

W. nude or topless entertainment or similar activities (i.e., employment of personnel uniformed or dressed in such a manner); and

X. restaurants, provided, restaurant use (for food sales as opposed to the sale of alcoholic beverages) may be permitted if authorized in writing by the Board and, during the Declarant Control Period, Declarant, and use may be conditioned on satisfaction of the following conditions (which conditions are hereby deemed reasonable by the Association and each Owner):

(i) The hours of operation shall be approved in writing by the Association and the Design Review Board of the Town of Mountain Village, Colorado;

(ii) There shall be no sound system external to any Unit;

(iii) The seating for any bar or lounge area shall not be greater than five percent (5%) of the total physical seating area for the restaurant;

(iv) There shall not be dancing areas within or appurtenant to the restaurant nor shall dancing be allowed within or appurtenant to the restaurant;

(v) No live entertainment shall be allowed at any time without the written approval of the Board or Declarant, as applicable;

(vi) The operator of the restaurant shall not allow odors to emanate into the interior or exterior residential living space of the Residential Units; and

(vii) The Owner shall submit to the Association or Declarant, as applicable, its noise and odor mitigation plans, which plans shall (a) provide for installation and use of scrubbers which will minimize or eliminate the release of odors from the Unit, (b) be reviewed and approved by the Association or Declarant, as applicable, and (c) become a binding element of the operation of the restaurant operation. Violation of this Subsection or any authorization granted pursuant to this Subsection shall subject the violator to a fine assessed by the Association of up to $500 per day, per infraction, in addition to all other sanctions provided by Law.

11.4. Ownership and Use of Parking Units.

11.4.1. Parking Units shall be configured in single spaces or stacked tandem spaces as shown on the Condominium Map.

11.4.2. Unless otherwise expressly permitted herein, Parking Units shall be used only for vehicle parking and use shall be undertaken in conformance with applicable Rules and Regulations. The Association may, from time to time, establish Rules and Regulations governing the operation and use of Parking Units and other parking areas within the Project.

11.4.3. Except as expressly provided herein, Parking Units P1 through P40 shall not be conveyed, transferred or otherwise disposed of except in connection with fee simple conveyance of the Residential Unit or Commercial Unit to which use and ownership thereof is restricted, and any purported conveyance, transfer, disposition or encumbrance of any such Parking Unit made separate of the appurtenant Residential Unit or Commercial Unit, as applicable, shall be void. Notwithstanding the foregoing, Declarant reserves the right to separate ownership of, and the right to convey independent of Commercial Unit or Residential Unit, Units P-6, P-7, P-8, P-9 and P-10 in Exhibit D attached hereto and incorporated herein by reference lists the Parking Units which shall not be conveyed separate from and independent of specific units and the subject Commercial Unit or Residential Unit to which Parking Unit ownership is restricted.

11.5. Ownership and Occupancy of Residential Units.

11.5.1. Each Residential Unit shall be used and occupied only for residential purposes in accordance with the use restrictions set forth in this Declaration, the other Condominium Documents and applicable Laws.

11.5.2. Excessive noise, unsightly displays, unpleasant odors and all other nuisances are prohibited.

11.5.3. Residential use of a Residential Unit shall not be deemed to include a "bed and breakfast" or "chalet", which uses are prohibited.

11.6. Ownership and Use of Storage Units. The Board may adopt Rules and Regulations restricting use and ownership of some or all of the Storage Units, including, without limitation, restrictions substantially similar to the Section 11.4 restrictions applicable to Parking Units. In such event, such Rules and Regulations shall prospectively be applicable to use, ownership and, as applicable, conveyance, of the Storage Units identified therein.

11.7. Ownership and Use of CTOA Parking Spaces and CTOA Plaza Level Space.

11.7.1. Pursuant to the Agreement to Convey, Declarant may grant and convey to CTOA the CTOA Plaza Level Space, and use thereof shall be subject to the restrictions contained herein and in the Agreement to Convey; provided, unless prohibited in Section 11.3.3 above, no such restriction shall be construed to prohibit use of the CTOA Plaza Level Space for (i) ski valet purposes, (ii) storage of personal and business equipment and supplies owned by CTOA or its members, (iii) business office, or (iv) retail purposes.

11.7.2. Notwithstanding any provision of this Declaration to the contrary, the following terms and provisions shall be applicable to the CTOA Parking Spaces:

A. Each CTOA Parking Space shall (i) meet applicable Town of Mountain Village, Colorado, requirements for off-street parking of full-sized vehicles in effect on the date of the construction permit issued for construction of the same, as approved by the Town of Mountain Village, Colorado, Design Review Board, and (ii) constitute a Parking Unit.

B. Except as expressly provided to the contrary herein, each CTOA Parking Space shall have the same legal characteristics as each other Parking Unit in the Project and shall be subject to reasonable and nondiscriminatory Rules and Regulations.

C. Notwithstanding any provision of this Declaration to the contrary, CTOA shall have no obligation to own a Residential Unit or Commercial Unit within the Project.

D. Notwithstanding any provision of this Declaration to the contrary, each of the CTOA Parking Spaces shall be exempt from Assessments during the period CTOA is the Owner thereof (the "Period of CTOA Ownership"); provided (i) CTOA shall be responsible for any unique costs and expenses incurred by Declarant, Successor Declarant and/or the Association for maintenance or repair of any CTOA Parking Space occasioned by the negligent acts or omissions or willful misconduct of CTOA or any Person claiming by, through or under CTOA, and (ii) except for the negligent acts or omissions or willful misconduct of Declarant, a Declarant Related Party, Successor Declarant, a Successor Declarant Related Party or the Association, CTOA shall indemnify and hold Declarant, each

Declarant Related Party, Successor Declarant, each Successor Declarant Related Party and the Association harmless from and against any and all loss, claim, damage or expense, including reasonable attorneys' fees, from any injury to person or property arising out of, or alleged to arise from, CTOA's, or that of any Person claiming by, through or under CTOA, right to use the CTOA Parking Spaces (and all costs and expenses described in (i) and (ii) above shall be payable by CTOA in the same manner as a Special Assessment and the Association shall have an Assessment Lien against the CTOA Parking Spaces therefor).

E. Subject to the provisions of this Declaration and reasonable Rules and Regulations governing use and enjoyment of each Parking Unit in the Project, CTOA may control how and by whom the CTOA Parking Spaces are used.

F. In the event CTOA transfers or conveys its interest in a CTOA Parking Space to a third party, CTOA shall (i) in the subject transfer or conveyance instrument, assign and transfer to such transferee, and cause such transferee to assume, all of CTOA's obligations hereunder (including the obligation to pay Assessments and other charges due hereunder from and after the date of such transfer or conveyance); (ii) pay to the Association prior to the effective date of such transfer or conveyance all sums due Declarant, Successor Declarant and the Association, as applicable, with respect to such CTOA Parking Space; and (iii) within ten (10) days after the effective date of such transfer or conveyance, provide the Association with (A) copies of the recorded document(s) transferring or conveying such CTOA Parking Space, and (B) the name, address, phone and facsimile number of the third party purchaser. From and after the effective date of any such transfer or conveyance, the Association shall impose Assessments against the Owner of each CTOA Parking Space; the Owner thereof shall own the same subject to the terms, conditions, covenants and restrictions contained herein; and Assessments shall be calculated in the manner established in Subsection 3.2.2 above, except that (y) the formula shall be modified to include the Area contained within the subject CTOA Parking Space(s) within the total Area for all Parking Units, and (z) the owner of the subject CTOA Parking Space(s) shall be allocated a pro rata share of the subject expenses.

G. Notwithstanding any provision of the Condominium Documents to the contrary, each CTOA Parking Space shall be used solely for vehicle parking, and no portion of a CTOA Parking Space may be converted into storage space or otherwise improved, and no repair or maintenance of vehicles may be undertaken on a vehicle parked in a CTOA Parking Space.

H. CTOA Parking Spaces shall be accessed by and across the General Common Elements as specified herein, which areas are General Common Elements in the Project for use and enjoyment by all Unit Owners. Notwithstanding any provision of the Condominium Documents to the contrary, neither CTOA nor any other Owner or user of a CTOA Parking Space shall, solely by reason of such ownership or right, have the right to use and enjoy any other Common Element in the Project.

11.8. Miscellaneous.

11.8.1. Notwithstanding the provisions of this Article XI to the contrary, (i) an Owner may grant such Owner's rights to use any General Common Element or any Limited Common Element appurtenant to the Owner's Unit to the Owner's Guests; and (ii) nothing in this Declaration shall prevent or limit Declarant's exercise or enjoyment of any Special Declarant Right.

11.8.2. Unless otherwise agreed in writing by the Association, acting through its Board, any improvements permitted to be constructed within a Unit shall constitute personal property of the Owner of such Unit, and shall not constitute part of the Unit nor shall they be Common Elements, regardless of the manner of installation. The Owner (as opposed to Declarant or the Association unless such Unit is owned by Declarant or the Association) shall be responsible for the initial installation of such items, for the maintenance and repair thereof and for replacement thereof in the event of a casualty or condemnation.

11.8.3. The Board Association is authorized and empowered to adopt and amend, from time to time, reasonable Rules and Regulations to effectuate the provisions of this Article XI with respect to use of Units and Common Elements and the appearance of Improvements. Copies of new or amended Rules and Regulations shall be posted or furnished to Unit Owners at least thirty (30) days prior to the effective date (except in the case of an emergency or urgent circumstances, in which event the new or amended Rules or Regulations shall be effective on the date stated therein).

ARTICLE XII
ENCROACHMENTS AND VARIATIONS

12.1. Easement for Encroachments.

12.1.1. 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: (i) the build-out of a Unit by an Owner thereof following the completion of the Declarant Improvements (provided, only to the extent approved by the Board and, during the Declarant Control Period, by Declarant); (ii) by Declarant in furtherance of the exercise of Rights Reserved by Declarant; (iii) settling of the Improvements; (iv) alteration or repair to the Common Elements; or (v) repair or restoration of the Improvements and/or Unit(s) after damage by fire or other casualty, or condemnation or eminent domain proceedings, then, notwithstanding the designations set forth on the Condominium Map, a valid easement shall exist for the encroachment and for the maintenance of the same so long as the encroachment exists.

12.1.2. Encroachments and easements permitted pursuant to Subsection 12.1.1 above shall not be considered or determined to be an encumbrance either on the Common Elements or on the Units for purposes of marketability of title or other purposes.

12.1.3. Encroachments and easements permitted pursuant to Subsection 12.1.1 above shall not absolve the Person responsible therefor from liability for acts and omissions relating thereto.

ARTICLE XIII
RESERVATION FOR ACCESS: MAINTENANCE, REPAIR AND EMERGENCIES

13.1. Association Right of Access. The Association, its officers, Directors, contractors, subcontractors, agents, representatives and employees shall have the irrevocable right to have access to each Unit and all Common Elements (i) from time to time during reasonable hours as may be reasonably necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom or any other improvement the Association has the right or obligation to maintain, repair, replace or inspect pursuant to this Declaration, and (ii) and at all times, without notice, for making emergency repairs, maintenance or inspection necessary to prevent damage to the Common Elements or a Unit.

13.2. 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 a Common Expense; provided, if such damage is caused by the negligent acts or omissions or willful misconduct of an Owner or an Owner Related Party at such Unit, then the Owner shall be liable for all such costs and expenses and shall pay the same to the Association immediately upon demand therefor.

13.3. Public Improvements. Maintenance, repair and replacement of drainage structures and facilities, and other public improvements required by governmental authorities with jurisdiction over the Property as a condition of development of the Project, shall be the responsibility of the Association unless such improvements have been dedicated to and accepted for maintenance, repair and replacement by a governmental authority or such maintenance, repair and replacement has been authorized by Law to be performed by a special district or other municipal or quasi-municipal authority.

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

13.5. Common Expenses. Unless occasioned by the negligent acts or omissions or willful misconduct of an Owner or an Owner Related Party, all maintenance, repair and replacement of General Common Elements, whether located inside or outside of a Unit, shall be a Common Expense.

13.6. Services Easement. An easement for ingress and egress is hereby granted to (i) all sheriff, fire protection, ambulance and other similar emergency service personnel, and (ii) employees and contractors of Telluride Mountain Village Metropolitan District to enter upon the Project in the performance of their duties. The scope and use of such easement may be reasonably limited or conditioned by the Association upon written notice to any or all of the foregoing.

ARTICLE XIV
UNIT CONSTRUCTION

14.1. Construction Approval Required. Prior to commencement of construction in a Unit, each Owner shall submit to, and obtain written approval of, his proposed plans and specifications from the Architectural Review Committee and, if applicable, each governmental authority with jurisdiction over the Property. Each application for plan approval shall be made in the form required by the Architectural Review Committee. The Association may charge filing fees and seek reimbursement of reasonable costs and expenses incurred by the Association in reviewing an application.

14.2. Owner Obligations, Prohibitions.

14.2.1. No Owner, other than Declarant during the Declarant Control Period, shall redesign or make changes to the building shell, including, without limitation, its structural components, mechanical facilities and exterior appearance. All construction shall be confined to the interior of the Unit unless expressly approved in writing by the Architectural Control Committee and, at the discretion of the Association, the Association's engineer.

14.2.2. Each Owner shall be responsible for promptly and completely repairing any damage to the Common Elements or another Unit caused by its or an Owner Related Party's construction at a Unit.

14.2.3. Each Owner, other than Declarant during the Declarant Control Period, shall post a construction deposit with the Association in the amount deemed reasonable and necessary by the Association, which deposit may be used by the Association for clean up, repair and related costs and expenses.

14.2.4. Each Owner, other than Declarant during the Declarant Control Period, shall initiate and complete approved construction within the time period stated by the Architectural Review Committee in its written approval.

14.2.5. No Owner shall allow any mechanic or other liens to be placed against any Common Elements or Unit owned by another Person.

14.3. Architectural Review Committee.

14.3.1. The Board shall appoint the members of the Architectural Review Committee, which membership shall consist of not less than three (3) members nor more than five (5) members. A member of the Architectural Review Committee need not be an Owner of a Unit. To the extent possible and practical, at least one member of the Architectural Review Committee shall be a licensed architect. The Architectural Review Committee shall be responsible for review and approval of all Unit construction, exclusive of Units owned by Declarant and constructed by Declarant pursuant to Rights Reserved by Declarant.

14.3.2. The Board and, during the Declarant Control Period, Declarant, may adopt Rules and Regulations relating to the activities of the Architectural Review Committee, including, without limitation, filing requirements, fees and expenses relating to plan review, and the times for filing and action.

14.3.3. The Architectural Review Committee shall have no obligation to review any Owner plans and specifications which do not comply with application requirements established by the Architectural Review Committee or Association or which are otherwise incomplete.

14.4. Indemnification and Insurance. Each Owner shall indemnify and hold harmless Declarant, each Declarant Related Party, Successor Declarant, each Successor Declarant Related Party, the Association and its officers, Directors, managers, members, employees, contractors, subcontractors, agents and representatives, and each other Owner from and against any and all loss, claim, damage, injury to person or property or expense, including reasonable attorneys' fees and court costs, arising out of, or alleged to arise from, an Owner or Owner Related Party's construction at Owner's Unit, the plans and specifications relating to such construction and any mechanic liens filed against any portion of the Project. During any period of construction or remodeling of its Unit, the Owner shall obtain and maintain in effect general liability and casualty insurance for the Project and the Unit, naming itself, Declarant, each Declarant Related Party, any Successor Declarant, each Successor Declarant Related Party and the Association as insureds thereunder. The Association may, upon written notice, impose reasonable insurance coverage requirements on an Owner in order to protect the respective interests of Declarant, each Declarant Related Party, any Successor Declarant, each Successor Declarant Related Party, the Association and each other Owner.

ARTICLE XV
UNIT MAINTENANCE RESPONSIBILITY

15.1. Owner Responsibility.

15.1.1. Each Owner shall have the obligation to maintain and keep in good repair all Improvements installed or constructed within his Unit, including, without limitation, (i) the interior surfaces of walls, ceilings and floors (including any Owner interior finish, dry wall or wallboard surfaces, carpeting, tile, wallpaper, paint and other coverings); (ii) internal utility distribution services such as water, light, gas, power, sewer, telephone and air conditioning; (iii) all doors, windows and window panes; and (iv) all fixtures, appliances and other interior accessories within the Unit.

15.1.2. Each Owner is responsible for the negligent acts and omissions, and willful misconduct, of itself and each Owner Related Party.

15.1.3. Each Owner shall reimburse the Association for costs and expenses incurred in replacing and/or repairing any Common Element and related facility damaged or destroyed through fault of the Owner or an Owner Related Party, and the Association shall be entitled to assess such Owner and/or Owner Related Party for amounts payable hereunder in the same manner, and have the same rights with respect to such amounts, as Assessments.

15.1.4. No Owner shall alter any Common Element without the prior, written consent of the Board.

15.1.5. Each Owner shall be responsible for the day-to-day care, cleaning and upkeep of Limited Common Elements reserved for the use of such Owner. 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 and, if applicable, other Owners, entitled to the exclusive use thereof, and the expense of maintaining, repairing, replacing or reconstructing any such Limited Common Element shall be assessed equally against the Unit or Units to which assigned.

15.2. Utility Lines. No Owner shall be deemed to own any utilities or communication systems running through or upon his Unit which serve one or more other Units except as a tenant in common with other Owners. No utility lines or appurtenances thereto, whether internal or external to a Unit, shall be altered, changed, relocated or distributed without the prior, written consent of the Board.

15.3. No Impairment. No Owner shall perform or permit any act or work that will impair the structural soundness or integrity of the building in which his Unit is located, or affect the mechanical facilities within the Project, or alter the exterior appearance or configuration of the Project, or impair the Common Elements.

ARTICLE XVI
UTILITY AND OTHER SERVICES

16.1. Water and Sewer Services. The Association shall be responsible for obtaining water and sewer services for all portions of the Common Elements and stubbing-out the same to each Commercial Unit and Residential Unit as reflected in the applicable plans therefor. Expenses for water and sewer services to the Common Elements shall be part of the Common Expenses. The Association shall allocate expenses for water and sewer services to the Units in proportion to usage, which shall be determined by the Association in such manner as the Board deems reasonable and practical, or may include all such expenses in Common Expenses. Each Unit Owner shall ensure that his Unit is sufficiently heated to prevent freezing of water and sewer lines serving the Unit and/or other portions of the Project.

16.2. Natural Gas. The Association shall be responsible for obtaining gas services for all portions of the Common Elements and stubbing-out the same to each Commercial Unit and Residential Unit as reflected in the applicable plans therefor. Expenses for gas services to the Common Elements shall be part of the Common Expenses. The Association shall allocate expenses for gas services to the Units in proportion to usage, which shall be determined by the Association in such manner as the Board deems reasonable and practical, or may include all such expenses in Common Expenses.

16.3. Electricity. The Association shall be responsible for obtaining electrical services for all portions of the Common Elements and stubbing-out the same to each Commercial Unit and Residential Unit

as reflected in the applicable plans therefor. Expenses for electric power service to the Common Elements shall be part of the Common Expenses and shall be allocated in a manner and methodology deemed reasonable and appropriate by the Board. Electric power service to Units shall be separately metered, and the Owner of each Unit shall be responsible for establishing a billing account for his Unit with an appropriate provider of electric utility services and for paying all charges for electric power to his Unit.

16.4. Cable Television. The Association shall arrange for cable or satellite television service to be available to each Residential Unit and Commercial Unit. Unless otherwise determined by the Association, each Owner of such a Unit shall be responsible for establishing service in conformance with this Declaration and applicable Laws, including improvements necessary to provide the same, and for paying all charges for such services to his Unit.

16.5. Telephone and Other Communication Services. Each Owner shall be responsible for obtaining any desired telephone service and other communication service to his Unit, and each Owner shall be responsible for establishing service in conformance with this Declaration and applicable Laws, including improvements necessary to provide the same, and for paying all charges for such services to his Unit. The Association shall determine what, if any, telephone and other communication services are necessary for the Common Elements, and the Association shall be responsible for obtaining such services. Any expenses for such services to the Common Elements shall be part of Common Expenses.

ARTICLE XVII
ASSESSMENTS FOR COMMON EXPENSES AND LIMITED COMMON EXPENSES

17.1. Obligation. Each Owner, by accepting a deed to a Unit (regardless of whether it is stated in such deed), shall be deemed to have covenanted and agreed to pay to the Association all General Assessments, Special Assessments, Default Assessments and other charges that the Association is required or permitted to levy or impose on such Owner or such Owner's Unit pursuant to this Declaration or any other Condominium Document or the Act. 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 purpose reasonably related to the operation, maintenance and control of the Project or allowable under the Condominium Documents or the Act.

17.2. General Assessment.

17.2.1. After a proposed annual budget has been adopted, the Association shall levy an assessment for Common Expenses (a "General Assessment") on each Unit or pertinent Class. Except as otherwise provided in this Declaration, the General Assessment to be paid by an Owner shall be determined in accordance with Article IV above. The Board shall fix the amount of the annual General Assessment against each Unit in the Project and/or pertinent Class and, except with respect to the initial budget, advise each Owner in writing of the amount of the General Assessment against his Unit at least thirty (30) days before the first installment thereof is due. The failure of the Board to levy timely an annual General Assessment shall not relieve any Owner of the obligation to continue paying General Assessment installments in the amount last levied, as well as any increases subsequently levied.

17.2.2. Each Owner shall pay the General Assessments levied against his Unit in such quarterly or other periodic installments as may be required by the Association.

17.2.3. If the General Assessment portion of an annual budget is modified, the amount of the General Assessment levied against each Unit shall be adjusted accordingly, as shall the amount of each Owner's periodic installments.

17.2.4. If the Association fails to adopt an annual budget for any calendar year prior to January 1 of that calendar year, each Owner shall continue to pay periodic installments of the General Assessment to the Association at the rate payable during the prior calendar year until such time as the Association adopts a new annual budget for the then current calendar year. Once the Association adopts a new annual budget, the Association shall levy against each Unit the General Assessment for the then current calendar year and, to the extent the sum of the periodic installments previously paid by an Owner is less than the sum of the amounts that would have been payable had the new General Assessment been in effect from the beginning of such calendar year, such Owner shall pay the Association an amount equal to the underpayment in a lump sum on the due date of the next periodic installment after the setting of the amount of the new General Assessment.

17.2.5. The failure or delay of the Association to levy a General Assessment for any calendar year shall not be deemed a waiver, modification or release of an Owner's liability for its share of Common Expenses allocated to such Owner's Unit.

17.2.6. Until the Association makes an Assessment, but no later than expiration or termination of the Declarant Control Period, Declarant shall pay 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.

17.3. Special Assessments.

17.3.1. The Assessments that the Association may levy pursuant to this Section 17.3 are referred to herein as "Special Assessments".

17.3.2. Notwithstanding anything to the contrary contained in Section 17.2 above, if any Common Expense is attributable to the operation, maintenance, repair, replacement, alteration or improvement of a Limited Common Element, the Association may levy an Assessment for such Common Expense against the Unit to which that Limited Common Element is assigned, equally, in proportion to the shares of Common Expenses attributable to the Unit or Units or in any other equitable proportion as the Board reasonably deems appropriate.

17.3.3. The Association shall have the right to reasonably allocate a disproportionate share of the expenses of repair and maintenance of the Common Elements to any Unit which has been occupied or used (including use on a rental basis for the majority of the dates in any Assessment period) to the extent that the Board reasonably determines that such occupancy and/or usage has resulted in excessive wear and tear and/or resultant expenses.

17.3.4. It is specifically contemplated that the Board will levy Commercial Unit Assessments, Parking Unit Assessments, Residential Unit Assessments and Storage Unit Assessments against Units owned by Owners within the Commercial Unit Owners Class, Parking Unit Owners Class, Residential Unit Owners Class and Storage Unit Owners Class, respectively. Notwithstanding anything to the contrary contained in Section 17.2 above, if any Common Expense is attributable to the operation, maintenance, repair, replacement, alteration or improvement of a Common Element allocated to, used by or otherwise attributable to a particular Class or Classes, as determined by the Board, the Association may levy an Assessment for such Common Expense against the Units within such Class or Classes to which such Common Element is assigned. By way of example and not limitation, the amount of utility costs and certain other Common Expenses allocated to Commercial Units may exceed the same types of costs for other Units and one or more, but less than all of the, Classes may exclusively pay for certain Common Expenses. Except as otherwise expressly provided herein, the Board shall determine an equitable, pro rata formula for levying such Assessments and allocate the same

to each Unit within the subject Class in an amount equal to each Owner's allocated interest measured against the allocated interests of each other Unit included within the Class.

17.3.5. Without limiting the right or ability of the Board to make additional allocations of Common Expenses and/or Limited Common Expenses, expenses for the following are hereby designated as Limited Common Expenses, payable by the designated Class:

A. The Residential Unit Owners Class shall be assigned all of the costs of:

(i) repair, maintenance, replacement and insurance of any Residential Unit Common Elements, including, without limitation, hallways, stairways, portions of elevator areas and the like;

(ii) creation and collection of replacement reserves for the Residential Unit Common Elements;

(iii) utilities for the Residential Units Common Elements; and

(iv) all additional costs, expenses and fees uniquely associated with the Residential Units.

B. The Commercial Unit Owners Class shall be assigned all of the costs of:

(i) repair, maintenance, replacement and insurance of any Commercial Unit Common Elements;

(ii) creation and collection of replacement reserves for the Commercial Unit Common Elements;

(iii) utilities for the Commercial Unit Common Elements; and

(iv) all additional costs, expenses and fees uniquely associated with the Commercial Unit.

C. Except as expressly provided otherwise herein, in the first calendar year in which the Association levies an Assessment, each Parking Unit shall bear a General Assessment at an annual rate of $1,309.00 (prorated for a partial year), and each Owner of a tandem Parking Unit shall pay two times such rate.

D. Each Special Assessment levied against any Residential Unit shall be shown on an annual budget, or an amendment to an annual budget, adopted by the Association and shall be payable as and when required by the Association.

17.4. **Default Assessments.** Notwithstanding anything to the contrary contained herein, if any Common Expenses or Limited Common Expenses are incurred as a result of an Owner's or an Owner Related Party's negligent acts or omissions or willful misconduct, or as the result of an Owner's or an Owner Related Party's violation of any covenant or condition of a Condominium Document, including, without limitation, costs and expenses arising from damage to General Common Elements, Limited Common Elements for which the Association is responsible or Parking Units for which the Association is responsible, the Association may levy an assessment equal to the cost thereof, plus costs and expenses incurred by the Association relating

thereto, against such Owner's Unit. Any such assessment levied by the Association and each fine, penalty, fee or other charge imposed upon an Owner therefor is herein referred to as a "Default Assessment". Default Assessments need not be reflected in the annual budget, or any amendment thereto, of the Association. With respect to any Default Assessment, or portion thereof, levied other than as a late charge, the Owner of the Unit against which the Association assessed the Default Assessment shall be provided notice and an opportunity to be heard as provided herein and, except as expressly provided herein, Owners of Units against which Default Assessments have been assessed shall pay such Default Assessments as and when directed by the Association.

17.5. Overages. In any year in which there is an excess of Assessments received over amounts actually used for the purposes described herein and the Condominium Documents, such excess may, at the Board's option, be applied against and reduce Assessments for the immediately succeeding year, placed in a reserve accounts for specified purposes, or be refunded.

17.6. Interest. Each past due Assessment or installment thereof shall bear interest at the rate established by the Board, not to exceed the lesser of twenty-one percent (21%) per annum or the maximum interest rate allowed by Colorado Law.

17.7. No Exemption or Waiver. Except as expressly provided herein, no Owner shall be exempt from liability for payment of Common Expenses or Limited Common Expenses or Assessments, and an Owner's failure to use or enjoy, or his abandonment or loss of the right to use or enjoy, the Common Elements or Unit shall not operate to excuse or exempt such Owner from his obligations hereunder, including, without limitation, the obligations to pay all Assessments and other charges as the same become due.

17.8. Reserves. The Board shall provide for the collection and maintenance of reserve accounts from time to time in amounts sufficient to cover reasonably foreseeable capital costs, expenses and liabilities. The Board may place reserves in an interest bearing account.

ARTICLE XVIII
COLLECTION OF COMMON EXPENSES AND LIMITED COMMON EXPENSES

18.1. Assessment Lien.

18.1.1. The Association shall have a lien on each Unit for any Assessment levied against that Unit and for any fines, late charges, penalties, interest and attorneys' fees, disbursements and costs of collection imposed against the Owner of such Unit under any Condominium Document (the "Assessment Lien"). The Assessment Lien shall secure each of the foregoing obligations of an Owner from the time such obligation becomes due. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by it, though the Association's right to lien the Unit shall continue, regardless of ownership. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted by any reason including, without limitation, any claim that the Association or the Board is not properly exercising its duties and powers under this Declaration. The Assessments, including fees, charges, late charges, attorney fees, fines and interest charged by the Association, shall be a charge on each Unit and shall be a continuing lien upon the Unit against which each such Assessment or charge is made. If an Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due.

18.1.2. An Assessment Lien is prior to all other liens and encumbrances on a Unit, except for (i) liens and encumbrances recorded before the recordation of the Declaration; (ii) a First Mortgage on the Unit (except as allowed by the Act with regard to the limited lien priority allowed to the Association); and (iii)

liens for Real Estate taxes and other governmental assessments or charges against the Unit. An Assessment 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.

18.1.3. The recording of this Declaration constitutes record notice and perfection of an Assessment Lien on each Unit. No further recordation of any claim of any Assessment Lien is required. Each Owner, by accepting a deed or other instrument of conveyance to a Unit or interest therein, irrevocably waives the homestead exemption provided by Part 2, Article 41, Title 38, Colorado Revised Statutes, as amended, and agrees that any Assessment Lien may be enforced without regard to such homestead exemption.

18.1.4. An Assessment Lien is extinguished unless proceedings to enforce the Assessment Lien are instituted within six (6) years after the full amount of the Assessment secured thereby becomes due, unless applicable Law allows for a longer period of time to initiate such an action.

18.1.5. This Section 18.1 does not prohibit actions or suits to recover sums secured by an Assessment Lien (which, for purposes of Subsection 18.1.4 above, shall be deemed to constitute proceedings to enforce the Assessment Lien securing such sums), nor does it prohibit the Association from taking a deed in lieu of foreclosure of an Assessment Lien.

18.1.6. In any action by the Association to collect Assessments or to foreclose an Assessment Lien for unpaid Assessments, the court may appoint a receiver of the Unit, the Owner, or both, to collect all sums alleged to be owed by the Owner prior to or during the pendency of the action. The court may order the receiver to pay to the Association any sums held by the receiver during the pendency of the action to the extent of the amount due the Association in connection with the unpaid Assessments.

18.1.7. An Assessment Lien may be foreclosed in the same manner as a mortgage on Real Estate. Assessments otherwise due shall continue to be payable during the period of foreclosure of an Assessment Lien.

18.1.8. Sale or transfer of any Unit shall not affect an Assessment 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 an Assessment Lien as provided in the Act. No such sale, transfer, foreclosure, or any proceeding in lieu thereof (including deed in lieu of foreclosure) nor cancellation or forfeiture shall relieve any Unit from its continuing liability for any Assessments thereafter becoming due, nor from the lien thereof.

18.2. Effect of Nonpayment of Assessments.

18.2.1. Any Assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within fifteen (15) days after the due date thereof shall bear interest at the rate provided herein and, the Association may assess a late charge thereon in the amount established by the Board.

18.2.2. The Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay any overdue Assessment, charge or fee, or monthly or other installments thereof, and may also proceed to foreclose its Assessment 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, an Assessment Lien therefor.

18.3. Statement of Assessments. The Association shall furnish to each Owner or his designee and, upon written request by Owner delivered to the Association by registered mail, return receipt requested, a Mortgagee or its designee, a statement setting forth the amount of unpaid Assessments currently levied against such Owner's Unit. The Association shall furnish the statement within ten (10) business days after receipt of the written request and payment of all costs relating thereto.

18.4. Joint and Several Liability. Each Purchaser of a Unit shall be jointly and severally liable with its predecessor in interest for all unpaid Assessments (including fees, charges, late charges, attorney fees, court costs, fines and interest) against the Unit or the predecessor in interest which accrued prior to the date of such Purchaser's acquisition of the Unit, without prejudice to such Purchaser's right to recover from its predecessor in interest the amounts paid by such Purchaser therefor. The term "Purchaser" as used in this Section shall not apply to the holder of any 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 any Person 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 XIX
INSURANCE

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

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

19.1.2. Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements, including rights under the Easements, insuring the Board, the Association, the Association manager, and their respective officers, employees, agents and representatives. Declarant and any Successor Declarant shall be named as additional insureds to the extent of Declarant's or any Successor Declarant's capacity as an Owner. Each Owner shall be named as an additional insured but only for claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements. Such insurance shall cover claims of one or more insured parties against other insured parties.

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

19.1.4. The Association may obtain and maintain separate insurance policies for the separate Classes of Units and Unit Owners and charge each Class separately.

19.2. Scope of Insurance. In the case of a building that contains Units having horizontal boundaries described in this Declaration, the insurance maintained under Section 19.1 shall include the Units, exclusive of the finished interior surfaces of the walls, floors and ceilings of the Units owned by Owners. The insurance need not include Improvements and betterments installed by Owners, but, if covered, any increased charge shall be assessed by the Association to the Owners thereof. The cost of insurance benefiting Owners shall be recouped through General Assessments or Special Assessments, as applicable.

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 therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to each Owner at its Unit address.

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

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

19.4.2. The insurer waives its right to subrogation under the policy against any Owner or Guest;

19.4.3. No negligent act or omission or willful misconduct of any Owner or an Owner Related Party will void the policy or be a condition to recovery under the policy; and

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

19.5. **Adjustment of Claims.**

19.5.1. Any loss covered by the property insurance policy described in Subsections 19.1.1 and 19.1.2 shall 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 Mortgagee. Subject to the provisions of Section 19.8 below, the proceeds must be disbursed first for the repair or restoration of the damaged or destroyed 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.

19.5.2. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles and any other matters relating to claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess any Owner for losses or benefits, including the amount of any deductibles paid by the Association, arising out of an Owner's or Owner Related Party's negligent acts or omissions or willful misconduct. 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 Responsibility for Insurance.** An insurance policy issued to the Association does not obviate an Owner's need to obtain insurance for his own benefit. Each Owner shall obtain and maintain insurance on his Unit improvements in form and amount as is standard, customary and commercially reasonable.

19.7. **Certificate of Insurance.** Each insurer that issues an insurance policy for the insurance described in Sections 19.1 and 19.2 shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or holder of a Security Interest in a Unit. Unless otherwise provided by statute, each policy shall be non-cancelable except upon thirty (30) days prior written notice of intent to cancel or not renew, as applicable, such notice to be mailed to the Association, each Owner and each Mortgagee to the address stated thereon.

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

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

19.8.2. Repair or replacement would be illegal under any state or local Law governing health or safety; or

19.8.3. Seventy-five percent (75%) of the Owners of the subject Class or Classes agree by vote or written consent not to rebuild.

19.9. Common Expenses in Excess of Insurance. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire 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 distributees, the insurance proceeds attributable to Units and Limited Common Elements that are not rebuilt shall be distributed to the Owners of those Units and the Class 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 shall be distributed to all Owners and lienholders in proportion to such Units' allocated interests in the General Common Elements.

19.10. Fidelity Insurance.

19.10.1. If any Owner or employee of the Association controls or disburses funds of the Project, the Association shall obtain and maintain, to the extent reasonably available, fidelity insurance. Coverage shall not be in an amount less than, in the aggregate, two months' current Assessments plus reserves, as determined by reference to the then current budget of the Association.

19.10.2. 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 greater of the amount (i) established by the Board, or (ii) specified in Subsection 19.10.1, unless the Association names such Person as an insured employee in a contract of fidelity insurance issued pursuant to this Subsection.

19.10.3. The Association may carry fidelity insurance in amounts greater than required in Subsection 19.10.1, and may require any independent contractor employed for the purposes of managing the Project to carry more fidelity insurance coverage than required in this Subsection.

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

ARTICLE XX
CASUALTY

20.1. Casualty to Common Elements. The Association shall respond to any damage to, or the destruction of, any Common Elements in accordance with the provisions of §38-33.3-313 of the Act.

20.2. Casualty to a Unit. To the extent the Association is not obligated to make any such repairs or replacements, each Owner shall repair or replace any damage to or destruction of such Owner's Unit as soon as is reasonably practical after such damage or destruction occurs.

ARTICLE XXI
CONDEMNATION

21.1. Condemnation of All Units. If the entire Project is taken by condemnation or similar proceeding, the Project shall terminate as of the date title passes to the condemning authority. Any award payable in connection with such taking shall be paid to the Association and shall be distributed by the Association in accordance with the provisions of §38-33.3-218 of the Act.

21.2. Condemnation of Fewer Than All Units. If one or more Units, but less than all Units, within the Project are taken by condemnation or similar proceeding, then:

21.2.1. any award payable in connection therewith shall be paid;

21.2.2. the interest in General Common Elements appurtenant to the affected Units shall be reallocated to the remaining Units; and

21.2.3. the shares of Common Expenses allocated to the affected Units shall be reallocated to the remaining Units, all in accordance with the provisions of §38-33.3-107 of the Act.

21.3. Condemnation of Common Elements.

21.3.1. If any General Common Element is taken by condemnation or similar proceeding, any condemnation award payable in connection therewith shall be paid to the Association and shall be used by the Association, first to repair any damage to General Common Elements resulting from the taking and, second, to pay any other Common Expenses.

21.3.2. If the Association receives any award in connection with the condemnation or similar taking of a Limited Common Element, the Association shall, in its reasonable discretion, pay all or any portion of such award to the Owner or Owners of the Unit or Units (within the Class, if applicable) served by such Limited Common Element and/or pay any other Common Expenses.

ARTICLE XXII
MORTGAGEE PROVISIONS

22.1. Encumbrances.

22.1.1. Each Owner shall have the right from time to time to mortgage or encumber his interest in his Unit by a Mortgage; provided the creation of junior Mortgages shall be subject to the following conditions.

A. The rights of each junior Mortgagee shall at all times be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, liens for Common Expenses or Limited Common Expenses and other obligations created by this Declaration and the Condominium Documents.

B. Within ten (10) business days of the Association's written request, each holder of a junior Mortgage shall release, for the purpose of restoration of any Improvements upon the Project, all of its right, title and interest in and to the proceeds under insurance policies upon said Project wherein the Association is named insured.

22.1.2. The rights of a First Mortgagee of a Unit shall be subject to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, liens for Common Expenses or Limited Common Expenses, and other terms of this Declaration and the Condominium Documents.

22.2. Notice of Actions. If requested in writing by the First Mortgagee of a Unit to do so, the Association shall notify such First Mortgagee in writing of the occurrence of any of the following events:

22.2.1. any casualty loss to, or the institution of proceedings to condemn, any Unit that is encumbered by a First Mortgage held by such First Mortgagee or any material portion of the Common Elements;

22.2.2. any delinquency in the payment of Assessments by an Owner whose Unit is encumbered by a First Mortgage held by such First Mortgagee, if such delinquency continues for 60 days;

22.2.3. any lapse or cancellation of, or material reduction of, coverage under any insurance policy or fidelity bond maintained by the Association; or

22.2.4. the entry of any material judgment against the Association.

22.3. Mortgagees' Rights.

22.3.1. Mortgagees, acting alone or in a group of two (2) or more, may, after not less than fifteen (15) days' prior written notice to the Association, pay taxes or other charges that are in default and that have or may become a charge against any of the Common Elements or improvements thereon, and pay overdue premiums on hazard insurance policies covering loss to, or damage or destruction of, Common Elements.

22.3.2. A Mortgagee may cure any delinquency in the payment of Assessments with respect to a Unit encumbered by such Mortgagee's Mortgage in accordance with Subsection 22.3.3.

22.3.3. If a First Mortgagee delivers to the Association a written request for notice of unpaid Assessments levied against a Unit that is subject to a First Mortgage held by the First Mortgagee (herein, an "Eligible First Mortgagee"), the Association shall report to the Eligible First Mortgagee any unpaid Assessments levied against such Unit that remain unpaid for more than sixty (60) days after the same shall have become due. The Eligible First Mortgagee may pay any such delinquent Assessment in full, but not in part, together with any and all costs and expenses incurred with respect to the Assessment Lien securing such unpaid Assessment and, upon such payment, such Eligible First Mortgagee shall have a lien on the Unit for the amounts so paid with the same priority as a lien of the First Mortgage held by such Eligible First Mortgagee.

22.4. Limitations on Rights of Eligible First Mortgagees. No requirement for approval or consent by an Eligible First Mortgagee provided in this Declaration shall operate to:

22.4.1. deny or delegate control over the general administrative affairs of the Association by the Owners or the Board;

22.4.2. prevent the Association or the Board from commencing, intervening in or settling any legal proceeding exercising its sole and absolute discretion; or

22.4.3. prevent any insurance trustee or the Association from receiving and distributing any insurance proceeds in accordance with the requirements of this Declaration.

22.5. Declarant Rights. No provision or requirement of this Article XXII shall apply to any Rights Reserved by Declarant or to other rights reserved to Declarant in this Declaration.

ARTICLE XXIII
PROPERTY FOR COMMON USE

The Association may acquire fee simple ownership, easements and other interests in real and personal property for the use and benefit of all or any Class of Owners, and may dispose of the same by sale or otherwise and, unless otherwise designated by the Board, any such property shall be deemed Common Elements.

ARTICLE XXIV
RIGHTS RESERVED BY DECLARANT

In addition to all rights it may have pursuant to the Act, for a period of ten (10) years from the Effective Date and for so long as Declarant owns Units, or such greater period as may now or hereafter be allowed by the Act or applicable Law, Declarant hereby reserves on its behalf and on behalf of each Successor Declarant certain rights (the "Rights Reserved by Declarant"), along with the right to exercise the Rights Reserved by Declarant on any property owned by Declarant and located in the Town of Mountain Village, Colorado. Such Rights Reserved by Declarant include:

24.1. Special Declarant Rights.

24.1.1. The right to maintain (i) a sales office, (ii) management offices and models in Units, and (iii) signs advertising the Project, including the Units. The sales office, management offices and models may be designated as Units on the Condominium Map and, unless otherwise prohibited herein or by third party agreement, may be sold by Declarant.

24.1.2. The right to maintain on the Project temporary construction facilities and construction materials, staging areas and other facilities reasonably required during construction and sale of the Units and during construction and sale of additional Units, if any.

24.1.3. The right to create and 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 create and use, and to permit others to use, easements through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations under the Act, this Declaration and the other Condominium Documents.

24.1.4. The right to merge or consolidate the Project with a similar common interest community; provided, existing rights of Unit Owners shall not be adversely or materially affected, nor shall Owner costs increase as a result of any such merger or consolidation without obtaining the prior written consent of the affected Owner(s).

24.1.5. The right to appoint or remove any officer of the Association or any Board member during the Declarant Control Period.

24.1.6. The right to amend this Declaration in connection with the exercise of any Special Declarant Rights.

24.1.7. The right to amend the Condominium Map in connection with the exercise of any Special Declarant Rights.

24.2. Additional Reserved Rights.

24.2.1. The right to reallocate General Common Elements as Limited Common Elements to reallocate Limited Common Elements as General Common Elements and to reallocate Limited Common Elements for the exclusive use of the Owners of Units appurtenant thereto. Declarant may reallocate Common Elements as either General Common Elements or Limited Common Elements pursuant to the provisions of this Declaration (i) by instrument recorded in the Official Records, (ii) in the deed pertaining to the Unit to which the subject Common Element is appurtenant, or (iii) by amendment to this Declaration recorded in the Official Records.

24.2.2. The right to establish or obtain, from time to time, by dedication, grant or otherwise, utility and other easements or encroachment permits for purposes including, without limitation, streets, paths, bridges, walkways, skyways, drainage, recreation areas, parking areas, ducts, shafts, flues and conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of, and to serve Owners and/or Property within, the Project.

24.2.3. The right to assign in whole or in part, to the Association, or to its successors in title to any portion of the Land, any of the rights reserved in the Declaration upon execution and delivery of such assignment in writing.

24.2.4. The right to impose additional restrictive covenants and protective covenants upon the Land provided the same are not inconsistent with, nor do they lower, the standards of the original covenants.

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

24.2.6. The right to transfer or convey ownership and title to any of the Storage Units and/or up to six (6) Parking Units (exclusive of the CTOA Spaces and Parking Units appurtenant to Commercial Units) to Persons who do not own a Unit in the Project; provided, the Purchaser thereof shall be responsible for Assessments levied against such Units as provided herein.

24.2.7. Should Declarant elect to construct and deliver any Commercial Unit or Residential Unit in a "shell", unfinished condition, Declarant reserves the right to promulgate and impose rules and regulations in addition to the Interior Unit Building Design and Construction Rules and Regulations, in form and content as Declarant deems necessary and appropriate to govern the manner in which an Owner, at its sole cost and expense, shall undertake and complete Unit Buildout of its Residential Unit or Commercial Unit. In such regard, Owner shall complete the Unit Buildout of the Residential Unit or Commercial Unit in accordance with such rules and regulations, the Interior Unit Building Design and Construction Rules and Regulations, all other applicable Rules and Regulations adopted by the Board, this Declaration and applicable Law.

24.2.8. At all times during the term of Rights Reserved by Declarant, Declarant is authorized to construct Improvements within the Project without regard to Rules and Regulations adopted by the Board.

24.2.9. The right to amend the Condominium Map, this Declaration and the other Condominium Documents in connection with the exercise of any Rights Reserved by Declarant.

24.2.10. The right to exercise any of the rights described in Subsections 24.2.1 through 24.2.9 above and any other reserved right created by any other provision of this Declaration, the other Condominium Documents or the Act (collectively, the "Additional Reserved Rights").

24.3. Development Rights.

24.3.1. The right (each a "Development Right" and, collectively, the "Development Rights") to:

A. Add Real Estate located in the Town of Mountain Village, Colorado, to the Project;

B. Create or designate Common Elements within the Project;

C. Provided that the resulting number of Units does not exceed the Maximum Number of Units, subdivide Units or convert Units; or

D. Withdraw any Real Estate from the provisions of this Declaration.

24.3.2. The right to create master associations and/or subassociations and to subject all or any portion of the Project to the same.

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

24.3.4. The right to amend the Condominium Map and this Declaration in connection with the exercise of any Development Right.

24.3.5. The right to complete the Declarant Improvements.

24.3.6. The right to enter into one or more professional management contracts pertaining to the management of the Project on behalf of the Association; provided, however, any such contract must give the Association the right to terminate such contract without cause at any time after expiration of the Declarant Control Period.

24.4. Amendment of Declaration or Condominium Map.

24.4.1. If Declarant or Successor Declarant elects to exercise any Right Reserved to Declarant which causes a change in the Condominium Map and/or this Declaration, it shall comply with the Act by recording an amendment thereto in the Official Records (and Declarant may do so without consent or joinder of the Unit Owners).

24.4.2. The recording of any amendment to the Condominium Map and/or this Declaration as provided above shall automatically effectuate the terms and provisions of such amendment and, if

applicable, automatically vest in each then Unit Owner the reallocated Common Elements appurtenant to his Unit. Further, upon the recording of an amendment to this Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Project as expanded and to any additional Improvements, and the same shall be added to and become a part of the Project for all purposes. All conveyances of Units after such amendment is recorded shall be effective to transfer rights in all Common Elements, whether or not reference is made to any amendment of the Declaration or Condominium Map.

24.5. Assignment of Rights. Any Rights Reserved by Declarant created or reserved under this Declaration or the Act may be transferred by Declarant to any Person by an instrument describing the rights transferred and recorded in the Official Records. Such instrument shall be executed by the transferor Declarant and its transferee. The rights transferred may then be exercised in compliance with the requirements of this Declaration and the Act without the consent of the Association, any Unit Owner or any Mortgagee.

24.6. No Further Authorization Needed. The consent of Unit Owners and Mortgagees shall not be required for Declarant or any Successor Declarant to exercise any Rights Reserved by Declarant, and either of Declarant or Successor Declarant may act, without limitation, at its option and subject to compliance with applicable Laws, this Declaration and the Condominium Documents, including by execution and recordation of amendments to this Declaration and/or the other Condominium Documents. Rights Reserved by Declarant may be exercised with respect to different portions of the Project at different times during the period within which the Rights Reserved by Declarant remain in effect. Additionally, Declarant or Successor Declarant may exercise any Rights Reserved by Declarant on all or any portion of the Project in any order.

24.7. CTOA Rights Not Impaired. Notwithstanding the provisions of this Article XXIV, unless Declarant obtains the prior, written consent of CTOA, Declarant shall not at any time, including during the Declarant Control Period, exercise any Rights Reserved by Declarant in a manner which further restricts the rights of CTOA hereunder or imposes additional restrictions on CTOA in a non-uniform manner hereunder with respect to the CTOA Parking Spaces and/or the CTOA Plaza Level Space, including, without limitation, by amending this Declaration or the Condominium Map.

ARTICLE XXV
REVOCATION OR AMENDMENT OF DECLARATION

25.1. Revocation. Except as expressly provided herein or in the Act, this Declaration shall not be revoked unless all of the Owners and all of the Eligible First Mortgagees consent to such revocation by an instrument duly recorded in the Official Records.

25.2. Amendment. During the Declarant Control Period, Declarant shall have an absolute right to amend this Declaration with respect to any Units owned by Declarant or the Common Elements as long as any amendment does not materially and adversely affect the rights of any Owner. After the Declarant Control Period, this Declaration may be amended by the Association if (i) the Owners representing an aggregate ownership interest of seventy-five percent (75%) or more of the Common Elements, (ii) an aggregate of seventy-five percent (75%) of the Eligible First Mortgagees, except in the case of fire, casualty or condemnation (which shall be handled as provided herein or in the Act), and (iii) Declarant and any Successor Declarant (for so long as Declarant owns an interest in the Project and, thereafter, without Declarant's consent) consent and agree to such amendment by instrument(s) duly recorded in the Official Records; provided, except with respect to the reallocation of Common Elements, no such amendment shall increase the proportionate expenses chargeable against any Unit or Owner thereof without the unanimous consent of the Owners affected thereby expressed in an amended Declaration and/or Condominium Map duly recorded.

Notwithstanding the provisions of this Article XXV, in the event of the combination, division or partition of a Unit or Units pursuant to this Declaration, the Owner or Owners of the Unit or Units subject to such combination, division or partition and the Eligible First Mortgagee(s) may amend this Declaration and/or the Condominium Map to reflect the adjustment (which adjustment must be based upon the relative Area 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 or Limited Common Expenses attributable to such resulting spaces or as otherwise provided herein; provided, any such amendment shall (i) be approved in writing by the Association prior to the recording thereof, and (ii) not increase the proportionate expenses chargeable against any Unit or owner thereof in violation of this Section.

25.3. Voting by Eligible First Mortgagees. In determining the appropriate percentage approval of the Eligible First Mortgagees, whenever such approval may be required for any action taken by the Owners or the Association pursuant to this Declaration, each Eligible First Mortgagee shall have one vote for each First Mortgage owned by it (and no other Mortgage holder shall have the right to consent or vote to such action), and each such vote shall be weighted as provided in Article IV above.

25.4. 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.

25.5. Association Certificate. Amendments to the Declaration and/or the Condominium Map required by this Section to be recorded 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.

25.6. Expenses. All expenses associated with preparing and recording an amendment to the Declaration and/or the Condominium Map shall be the sole responsibility of:

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

25.6.2. In the case of an amendment pursuant to Rights Reserved to Declarant hereunder, by Declarant; and

25.6.3. In all other cases, the Association.

ARTICLE XXVI
ENFORCEMENT AND REMEDIES

26.1. Enforcement.

26.1.1. Except as expressly provided herein, each provision of this Declaration and/or the Condominium Map that (i) relates to the Common Elements, or (ii) imposes obligations on the Association, or (iii) limits the powers of the Association, shall be enforceable by Declarant, any Successor Declarant or any Owner solely by a proceeding for injunctive relief.

26.1.2. Each provision of this Declaration and/or the Condominium Map that (i) imposes obligations on an Owner, or (ii) limits the powers or restricts the rights of an Owner, shall be enforceable by Declarant, Successor Declarant, an Owner or the Association by:

A. a proceeding for injunctive relief;

B. a suit or action to recover damages; or

C. in the discretion of the Association, for so long as an Owner fails to comply with any such provision, excluding such Owner from voting in Association matters and/or prohibiting or limiting such Owner's and the Owner Related Parties' use of portions of the Common Elements, if any, devoted to recreational purposes.

26.1.3. In addition to the rights and remedies described in Subsection 26.1.2. above, if an Owner fails to perform or observe any covenant or condition to be performed or observed by such Owner under this Declaration, the Condominium Map or any other Condominium Document or agreement by which such Owner is bound, the Association shall have the following rights and remedies:

A. The Association may, but is not obligated to, cure such failure to comply at such Owner's sole cost and expense. If the Association cures any such failure to comply, such Owner shall pay to the Association all costs incurred by the Association in connection therewith within thirty (30) days after such Owner receives a written invoice therefor from the Association.

B. The Association may, after notice and an opportunity to be heard, pursuant to Section 26.4 below, fine such Owner, as a Default Assessment, in an amount not to exceed $500 for each violation, per day, and such Owner shall pay any such fine to the Association within thirty (30) days after such Owner receives a written invoice therefor from the Association.

C. In the case of such Owner's failure to pay timely an installment of any Assessment, the Association may accelerate the due date for the payment of the full amount of the Assessment.

D. The Association shall have all other rights and remedies available to it under this Declaration and the other Condominium Documents, at Law or in equity.

E. All rights and remedies of the Association shall be cumulative, and the exercise of any one right or remedy shall not preclude the exercise of any other right or remedy.

26.2. Attorneys' Fees. In any action to enforce or contest any provision of this Declaration, the Condominium Map or any other Condominium Document (exclusive of the Easements), or to obtain a declaration of the rights or responsibilities of any Person hereunder or thereunder, the prevailing party shall be entitled to recover all costs and expenses reasonably incurred by such party in connection with such action, including, without limitation, reasonable attorneys', accountants', engineers', appraisers' and other professional fees incurred by the prevailing party.

26.3. Late Charges. In addition to interest payable hereunder, the Association may also establish, charge, levy and collect late charges on past due amounts.

26.4. Nonwaiver. No failure by Declarant or the Association to enforce any covenant, condition, restriction, reservation, easement, assessment, charge, lien or other provision of this Declaration or any other Condominium Document or related agreement shall be deemed to be a waiver of the right to do so thereafter.

ARTICLE XXVII
MISCELLANEOUS

27.1. Registration of Mailing Address.

27.1.1. Unless an Owner registers a notice address with the Association pursuant to this Declaration, each notice and other communication to such Owner pursuant to this Declaration shall be made in writing by first class mail or hand delivery to such Owner at his Unit address. Each Owner and Mortgagee shall register his or its mailing address, overnight mailing address, street delivery address, phone number and facsimile number with the Association.

27.1.2. All notices or demands to be served upon an Owner or a Mortgagee shall be in writing and shall be deemed to have been duly given (i) on the date of service personally on the party to whom notice was given, or (ii) on the date of delivery pursuant to confirmed facsimile transmission, or (iii) on the date of delivery if delivered by a nationally recognized overnight courier, or (iv) within three (3) business days after mailing if mailed to the Person to whom notice was given by first-class mail or registered mail or certified mail, return receipt requested, postage prepaid, and properly addressed to the party at (A) with respect to such Owner, at the Unit address or, if applicable, at such Owner's registered address provided pursuant to Subsection 27.1.1 above, and (B) with respect to a Mortgagee, at the address stated in the subject Mortgage.

27.1.3. All notices, demands or other notices intended to be served upon the Board or the Association shall be sent by certified mail, return receipt requested, postage prepaid, to the Association at 8121 Bee Caves Road, Suite 101, Austin, Texas 78746, Attention: Trish Kunz.

27.1.4. By giving at least thirty (30) days written notice thereof, the Association or an Owner or a Mortgagee shall have the right from time to time to change its respective address and to specify as its address any address within the United States of America. With respect to notices to be provided by the Association, (i) unless an Owner or Mortgagee, as applicable, registers a change of address with the Association in accordance with this Subsection and Subsection 27.1.1 above, the Association shall be deemed to have provided the requisite notice by delivery to such Owner's Unit address or the address stated in the subject Mortgage, as applicable, or the last registered mailing address of such Owner or Mortgagee provided in compliance with this Section; and (ii) notwithstanding the Association's agreement to provide notices required pursuant to this Declaration, in the event the Association fails to provide any notice required hereunder, in no event shall the Association ever be liable in damages to any Person, including, without limitation, an Owner, Owner Related Party or Mortgagee.

27.2. 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.

27.3. Conflicts. In the event of any conflict between the terms and provisions of this Declaration and the terms and provisions of the Act, or between the terms and provisions of this Declaration and the terms and provisions of the Corporation Act, or between the terms and provisions of this Declaration and the terms and provisions of the Bylaws, unless expressly prohibited by the Act or the Corporation Act, as applicable, the terms and provisions of this Declaration shall control. In the event of any conflict between the terms and provisions of this Declaration and the terms and provisions of the Articles, unless expressly prohibited by the Act or the Articles, the terms and provisions of this Declaration shall control. In the event of any conflict between the express terms and provisions of this Declaration and the terms and provisions of the Rules and Regulations, the terms and provisions of this Declaration shall control.

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

27.5. Applicable Law. This Declaration is filed in the Official Records, 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.

27.6. Compliance with Provisions. Each Owner shall comply strictly with the provisions of this Declaration, the other Condominium Documents, and 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 Association on behalf of the Owners or, in a proper case, by an aggrieved Owner.

27.7. Reference to Ownership Interests. Whenever in this Declaration or in the Articles or Bylaws 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 Common Elements as reflected in Exhibit C hereto and, unless the context otherwise requires, shall not be deemed to mean a percentage of Owners by number of individual Persons.

27.8. Compliance with Federal Fair Housing Act. In order to comply with the requirements of the Federal Fair Housing Act, as heretofore and hereafter amended:

27.8.1. The Board may, to the extent permitted or required by Law, make reasonable accommodations to the extent such accommodations are necessary under the Federal Fair Housing Act or otherwise appropriate to afford a Person with a Disability (as defined therein or by applicable Law) equal opportunity to use and enjoy a Unit, the Limited Common Elements appurtenant thereto, and/or the General Common Elements, which accommodations may include waivers and modifications of such Rules and Regulations that are applicable only to a particular Person with a Disability or to a particular category of Persons with a Disability. Unless required by Law, (i) the Board need not follow procedural requirements in making such waivers and modifications, and (ii) such waivers and modifications need not be approved by, or be subjected to approval by, the Members of the Association.

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

27.9. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the creation of a uniform plan for the development of the Units and to promote and effectuate the fundamental concepts set forth in the Recitals of this Declaration. This Declaration shall be construed and governed under the Laws of the State of Colorado.

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

27.11. Disclaimer of Representations. Notwithstanding anything to the contrary contained in this Declaration, Declarant makes no warranties or representations whatsoever that the plan presently envisioned for the complete development of the Project can or will be carried out or that any land (other than the Land) now owned or hereafter acquired by Declarant is or will be subject to this Declaration, or that any such land,

whether or not it has been subjected to this Declaration, is or will be committed to or developed for a particular use, or that such use will continue in effect.

27.12. Reference to Declaration and Deeds. Deeds to, and instruments affecting any, Unit or any other part of the Project may contain the provisions set forth herein by reference to this Declaration but, regardless of whether any such reference is made in any deed or instrument, each and all of the grants, covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth herein shall be binding upon each Purchaser, Owner, Owner Related Party or other Person claiming through any such deed or other instrument and their respective heirs, executors, administrators, successors and assigns.

27.13. Successors and Assigns of Declarant. Any reference in this Declaration to Declarant shall include any successors or assignees of Declarant's rights and powers under this Declaration; provided, Declarant's rights and powers may only be assigned by a written recorded instrument expressly assigning such rights and powers.

27.14. Exhibits. All exhibits attached to this Declaration are a part of, and are hereby incorporated into, this Declaration.

IN WITNESS WHEREOF, Declarant has executed this Declaration effective as of this 18th day of March, 2002.

WILDAIR, LP,
a Texas limited partnership
By: Wildair Management, LLC,
a Texas limited liability company, General Partner

By: Trish Kunz
Trish Kunz, Authorized Agent

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 18th day of March, 2002, by Trish Kunz, Authorized Agent of Wildair Management, LLC, a Texas limited liability company, General Partner of Wildair, LP, a Texas limited partnership, known to me by her Texas drivers license, on behalf of said partnership.

SCOTT PETTIT
Notary Public, State of Texas
My Commission Expires
August 20, 2003

Scott Pettit
Notary Public in and for the State of Texas

Scott Pettit
(Printed Name of Notary)

My Commission Expires: 8-20-03

AUSTIN 41349 6 6227 3

EXHIBIT A
Description of Land

Lot 59R, a Replat of Lot 59 and Tract OS-3, Filing 1, Town of Mountain Village, located within the NW ¼ of Section 3, T.42N., R.9W., of the N.M.P.M., in the County of San Miguel, lying within the incorporated town of the Town of Mountain Village, Colorado, according to the plat recorded October 10, 2001, in Plat Book 1 at page 2929, County of San Miguel, State of Colorado.

EXHIBIT B

List of Easements and Record Title Matters

General

1. Easement by and between The Wollman Family Trust and Club Telluride Company-I, L.L.C. recorded June 3, 1996, in Book 562 at page 611.

2. Easement by and between Telluride Gondola Transit Company and Club Telluride Company-I, L.L.C. recorded June 3, 1996, in Book 562 at page 615.

3. Easement by and between The Telluride Company and Club Telluride Company-I, L.L.C. recorded June 3, 1996, in Book 562 at page 619.

4. Power System Right-of-way Easement granted to San Miguel Power Association, Inc. in instrument recorded March 14, 1990, in Book 463 at page 818.

5. Easement conveyed in Deed recorded August 21, 1992, in Book 496 at page 873 as Parcel 2, and the terms, conditions, provisions, agreements and obligations thereof.

6. Fire Lane Easement Agreement recorded November 25, 1998, at Reception No. 322632.

7. Notice of Water and Sewer Tap Fee Payment pursuant to Section 8.4 of the Mountain Village Metropolitan District Water and Sewer Operation Rules and Regulations which reads: "8.4 TAP FEE. A tap fee shall be a charge to all customers of the District which shall be assessed and paid for before a building permit is issued." as recorded April 14, 1987, in Book 435 at page 603 and as modified by Tap Fee Agreement recorded May 29, 1992, in Book 492 at page 991, and by First Amendment to Tap Fee Agreement recorded December 18, 1996, in Book 573 at page 237, as assigned by Tap Fee Assignment and Assumption Agreement recorded April 29, 1999, at Reception No. 326037.

8. Any tax or assessment imposed or created by reason of the inclusion of the subject property in the Mountain Village Metropolitan District as created by Order of Court in Civil Action No. 83-CV-34 recorded February 10, 1984, in Book 409 at page 275 and any amendments, additions or adjustments to the boundaries of said District.

9. Notice filed by San Miguel Power Association, Inc., on March 18, 1999, at Reception No. 325020.

10. San Miguel County/Mountain Village Metropolitan District Intergovernmental Agreement between The Telluride Company, San Miguel County Board of County Commissioners and Mountain Village Metropolitan District, recorded February 17, 1984, in Book 409 at page 369.

11. General Notes 1 through 14, inclusive, definitions 1 through 25 inclusive, and designations, as shown on sheets 1, 2 and 3 of the Plat for the Telluride Mountain Village, Filing 1, recorded March 9, 1984, in Plat Book 1 at page 476, and the Plat for the Telluride Mountain Village, Filing 6, recorded June 20, 1985, in Plat Book 1 at page 565, and any amendments thereto, and Plat Notes 1 through 18, inclusive, and Definitions A through X, inclusive, as shown on sheet 4 of the Town of Mountain Village Official Town Plat recorded July 24, 1996, in Plat Book 2 at page 2073, and Notes, Density and Covenants, Conditions, Easements, Restrictions, Definitions and other matters as set forth on the Plat of the subject property recorded October 10, 2001, in Plat Book 1 at page 2929.

12. Declaration for the Telluride Mountain Village regarding covenants, conditions and restrictions, recorded March 9, 1984, in Book 409 at page 714, as amended or supplemented by the following instruments; Book 419 at page 593, Book 419 at page 597, Book 426 at page 963, Book 434 at page 520, Book 438 at page 681, Book 438 at page 702, Book 439 at page 982, Book 441 at page 677, Book 441 at page 980, Book 442 at page 269, Book 445 at page 522, Book 445 at page 769, Book 446 at page 804, Book 447 at page 942, Book 448 at page 589, Book 449 at page 139, Book 451 at page 402, Book 452 at page 621, Book 454 at page 690, Book 454 at page 694, Book 455 at page 167, Book 455 at page 522, Book 455 at page 526, Book 456 at page 870, Book 457 at page 761, Book 458 at page 157, Book 459 at page 741, Book 459 at page 745, Book 459 at page 749, Book 461 at page 609, Book 462 at page 747, Book 462 at page 886, Book 463 at page 526, Book 464 at page 712, Book 466 at page 988, Book 467 at page 829, Book 474 at page 833, Book 480 at page 954, Book 484 at page 184, Book 486 at page 106, Book 489 at page 938, Book 489 at page 964, Book 489 at page 974, Book 501 at page 1022, Book 503 at page 646, Book 505 at page 12, Book 505 at page 252, Book 507 at page 326, Book 509 at page 281, Book 515 at page 83, Book 515 at page 623, Book 516 at page 402, Book 520 at page 629, Book 523 at page 79, Book 532 at page 745, Book 537 at page 1001, Book 548 at page 193, Book 554 at page 429, Book 559 at page 151, Book 572 at page 445, Reception No. 329777, Reception No. 329778, Reception No. 338897, Reception No. 338898, and the terms, conditions, provisions and obligations contained therein.

13. Stipulated Settlement Order entered in Case No. 97 CV 133 by and between the Board of County Commissioners of the County of San Miguel, State of Colorado & San Miguel County Housing Authority, Plaintiffs, vs. Town of Mountain Village, Colorado, et al, defendants, recorded September 8, 1999, at Reception 329093.

14. Reservation by The Telluride Company of all the rights to minerals and oil, gas or other hydrocarbons located on, in or under the real property, without any right of surface entry for exploration, development or extraction of the same as reserved in Deeds recorded January 7, 1992, in Book 486 at page 299 and recorded October 18, 1994, in Book 536 at page 692.

15. Conveyance by The Telluride Company of all the rights in minerals of any kind to Telluride Ski & Golf company, a Colorado limited partnership in Deed recorded April 29, 1999, at Reception No. 326029.

16. Items numbered 10, 11, 13 and 14 as set forth in Exhibit attached to Deeds recorded January 7, 1992, in Book 486 at page 299 and recorded October 18, 1994, in Book 536 at page 692, as modified by Waiver Agreement recorded May 11, 2000, at Reception No. 334087.

17. Second Mountain Village Improvements Agreement recorded November 28, 1989, in Book 460 at page 47 and All Filing Improvement Bonding Agreement recorded July 17, 1990, in Book 468 at page 212, and as amended or supplemented.

18. Resolution of the Board of County Commissioners of San Miguel County, Colorado authorizing the First Technical Amendment to "General Note 3" of the final plats in the Telluride Mountain Village, Resolution No. 1990-12, recorded February 12, 1990, in Book 462 at page 759, and the terms, conditions, provisions and obligations contained therein.

19. Final Development Plan Approval for The Mountain Village Planned Unit Development recorded January 19, 1993, in Book 504 at page 788.

20. Resolution of the Board of County Commissioners of San Miguel County Approving a Planned Unit Development Amendment and Rezoning for the Telluride Mountain Village PUD, Resolution No. 1992-76, recorded January 7, 1993, in Book 504 at page 203.

21. Matters as set forth on Town of Mountain Village Official Town Plat recorded July 24, 1996, in Plat Book 2 at page 2073.

22. Resolution of the Board of County Commissioners of San Miguel County, Colorado, approving the Final Plat of Lot 57, The Replat of Lot 59 and the Rezone of Lots 57 and 59, Filing 1, Telluride Mt. Village, Resolution #1990-27, recorded April 24, 1990, in Book 465 at page 246.

23. Item 13 of Exhibit WD-RET-2 attached to Deed recorded May 11, 2000, at Reception No. 334085.

24. Waiver Agreement recorded May 11, 2000, at Reception No. 334087.

25. Option Agreement and Agreement to Buy and Sell Real Estate in Common Interest Community as evidenced by Memorandum recorded May 11, 2000, at Reception No. 334088.

26. License Agreement recorded May 11, 2000, at Reception No. 334098.

27. Assignment of Density recorded January 23, 2001, at Reception No. 339397.

28. Deed of Trust from Telluride Ski & Golf Company, a Colorado limited partnership, the Telluride Company, a Colorado corporation and The Mountain Village, Inc., a Colorado corporation, to the Public Trustee of San Miguel County, for the benefit of U.S. Bank National Association, f/k/a Colorado National Bank, securing an original principal indebtedness of $25,000,000.00 dated July 10, 1998, recorded July 10, 1998, at Reception No. 319936. (affects those portions of the property formerly being a part of Tract OS-3 and conveyed by Deed recorded October 10, 2001, at Reception No. 344348).

29. Deed of Trust from Wildair, LP, to the Public Trustee of San Miguel County, for the benefit of WestStar Bank, securing an original principal indebtedness of $11,161,750.00 dated April 9, 2001, recorded April 11, 2001, at Reception No. 340847.

30. Disburser's Notice recorded April 11, 2001, at Reception No. 340848.

31. Financing Statement from Wildair, LP, a Texas Limited Partnership, Debtor, to WestStar Bank, secured party, recorded April 11, 2001, at Reception No. 340849.

32. Resolution of the Town Council of the Town of Mountain Village, Mountain Village, Colorado Approving Lot 59R Replat and Rezone of Lot 59, Resolution No. 2000-0404-07 recorded October 25, 2001, at Reception No. 344720.

EXHIBIT B-1

Official Records Reference to Access Easements

1. Easement Modification Agreement recorded May 11, 2000, at Reception No. 334084 and re-recorded May 16, 2000, at Reception No. 334221.

2. Grant of Tunnel Easements and agreement recorded July 11, 1997, in Book 583 at page 872, Cost Sharing Agreement Access Ramp recorded January 7, 1999, at Reception No. 323556, First Amendment to Cost Sharing Agreement Access Ramp Telluride Mountain Village recorded May 11, 2000, at Reception No. 334095, Withdrawal Agreement recorded November 30, 1998, at Reception No. 322684, and the terms, conditions, provisions, agreements and obligations contained therein, and reservations contained in Deed recorded July 11, 1997, in Book 583 at page 930, in connection therewith.

3. Construction Access and Staging Implementation Agreement recorded May 11, 2000, at Reception No. 334082.

4. Temporary Construction Access and Staging Area Easement Agreement recorded May 11, 2000, at Reception No. 334083.

5. Option to Lease and Conditional Grant of Access Easement recorded May 11, 2000, at Reception No. 334097.

6. Easement recorded May 11, 2000, at Reception No. 334091.

7. Easement recorded May 11, 2000, at Reception No. 334092.

8. Easement recorded May 11, 2000, at Reception No. 334093.

9. Easement recorded May 11, 2000, at Reception No. 334094.

10. Mountain Village P.U.D. Subdivision Improvements Agreement by the San Miguel County Planning Commission, recorded March 9, 1984 in Book 409 at page 708 and re-recorded and amended May 30, 1984, in Book 411 at page 211.

EXHIBIT B-2

Official Records Reference to Encroachment Easement

Building Encroachment Easement Agreement by and between The Telluride Ski & Golf Company, LLLP, Telluride Mountain Village Resort Company, d/b/a Mountain Village Metropolitan Services, Inc. and Wildair, LP, recorded October 10, 2001, at Reception No. 344351.

EXHIBIT B-3

Official Records Reference to Parking Easement

1. Underground Parking Amendment recorded July 21, 1989, in Book 455 at page 550, and specifically Book 455 at pages 595 through 597.

2. Conveyance of easements contained in Deeds recorded January 7, 1992, in Book 486 at page 299 and recorded October 18, 1994, in Book 536 at page 692 and as the same are modified by the Parcel 4 Parking Easement Modification Agreement recorded October 10, 2001, at Reception No. 344350

3. Agreement to Convey recorded May 11, 2000, at Reception No. 334096

EXHIBIT B-4

Official Records Reference to Utility Easements

1. Easement Agreement to Maintain Utilities (Sanitation Sewer Lines) by and between The Telluride Ski & Golf Company, LLLP, Telluride Mountain Village Resort Company, d/b/a Mountain Village Metropolitan Services, Inc., Wildair, LP and Mountain Village Metropolitan District, recorded October 10, 2001, at Reception No. 344352.

2. Easement Agreement to Maintain Utilities (Storm Drain Sewer Lines) by and between The Telluride Ski & Golf Company, LLLP, Telluride Mountain Village Resort Company, d/b/a Mountain Village Metropolitan Services, Inc., Wildair, LP and Mountain Village Metropolitan District, recorded October 10, 2001, at Reception No. 344353.

3. Easement Agreement to Maintain Utilities (Waterline) by and between The Telluride Ski & Golf Company, LLLP, Telluride Mountain Village Resort Company, d/b/a Mountain Village Metropolitan Services, Inc., Wildair, LP and Mountain Village Metropolitan District, recorded October 10, 2001, at Reception No. 344354.

4. Easement Agreement to Maintain Utilities (CATV) by and between The Telluride Ski & Golf Company, LLLP, Telluride Mountain Village Resort Company, d/b/a Mountain Village Metropolitan Services, Inc., Wildair, LP and Mountain Village Metropolitan District, recorded October 10, 2001, at Reception No. 344355.

5. Gas Line affecting a portion of the subject property as disclosed by item 15 of the Exhibit attached to Deeds recorded January 7, 1992, in Book 486 at page 299 and recorded October 18, 1994, in Book 536 at page 692.

EXHIBIT C

TABLE OF ALLOCATED INTERESTS

Condominium Unit Designation/	Condominium Unit percentage share of Common Elements and Common Expenses	Condominium Unit percentage of Residential/ Parking Units or Storage Units, as applicable*		Unit Vote in the affairs of the Class/ Association
R-1	7%	2 P.U.	10 % R.U. / 5% P.U.	1 R.U./2 P.U.
R-2	7%	2 P.U.	10 % R.U. / 5% P.U.	1 R.U./2 P.U.
R-3	7%	2 P.U.	10 % R.U. / 5% P.U.	1 R.U./2 P.U.
R-4	7%	2 P.U.	9 % R.U. / 5% P.U.	1 R.U./2 P.U.
R-5	7%	2 P.U.	10 % R.U. / 5% P.U.	1 R.U./2 P.U.
R-6	7%	2 P.U.	10 % R.U. / 5% P.U.	1 R.U./2 P.U.
R-7	7%	2 P.U.	11 % R.U. / 5% P.U.	1 R.U./2 P.U.
R-8	7%	2 P.U.	10 % R.U. / 5% P.U.	1 R.U./2 P.U.
R-9	7%	2 P.U.	10 % R.U. / 5% P.U.	1 R.U./2 P.U.
R-10	7%	2 P.U.	10 % R.U. / 5% P.U.	1 R.U./2 P.U.
C-1	8%	4 P.U.	38 % R.U. / 5% P.U.	1 C.U./4 P.U.
C-2	13%	7 P.U.	57 % R.U. / 5% P.U.	1 C.U./7 P.U.
C-3	3%	4 P.U.	6 % R.U. / 5% P.U.	1 C.U./4 P.U
P-6	6.4%		3 % P.U.	1 P.U.
P-7	6.4%		3 % P.U.	1 P.U.
P-8	6.4%		3 % P.U.	1 P.U.
P-9	6.4%		3 % P.U.	1 P.U.
P-10	6.3%		3 % P.U.	1 P.U.
S-1	2.8%		16 % S.U.	1 S.U.
S-2	2.8%		16 % S.U.	1 S.U.
S-3	2.8%		16 % S.U.	1 S.U.
S-4	2.9%		17 % S.U.	1 S.U.
S-5	1.7%		10 % S.U.	1 S.U.
S-6	2.3%		13 % S.U.	1 S.U.
S-7	2.2%		13 % S.U.	1 S.U.

EXHIBIT D
List of Restricted Parking Units

Subject Parking Units	Corresponding Unit Ownership Requirement
P-1, P-2, P-3 and P-4	C-1
P-5, P-11, P-12, P-13, P-14, P-37 and P-38	C-2
P-15 and P-26	R-1
P-16 and P-27	R-2
P-17 and P-28	R-3
P-18 and P-29	R-4
P-19 and P-30	R-5
P-20 and P-31	R-6
P-21 and P-32	R-7
P-22 and P-33	R-8
P-23 and P-34	R-9
P-24 and P-35	R-10