300

290132

INDEX

CONDOMINIUM DECLARATION FOR
CABIN CREEK CONDOMINIUMS

SUMMIT COUNTY
CLERK AND RECORDER

Page 3 01 PM '84

COLLEEN RICHMOND

Paragraph

Recitals .....

1. Definitions 1
2. Division of Property into Condominium Units 3
3. Inseparability of a Unit 4
4. Limited Common Elements 4
5. Description of a Condominium Unit 4
6. Ownership - Title 4
7. Non-Partionability of Common Elements 5
8. Use of General and Limited Common Elements 5
9. Easements.....5
10. Owners Maintenance Responsibility for Unit 6
11. Termination of Mechanic's Lien Rights and Indemnification 7
12. Administration and Management; Association; Managing Agent 7
13. Powers and Duties of the Association 8
14. Insurance 10
15. Compliance with Provisions of Declaration, Articles of Incorporation and Bylaws of the Association 12
16. Assessment for Common Expenses 13
17. Owners Personal Obligation for Payment of Assessment.16
18. Assessment Lien 16
19. Liability for Common Expense Upon Transfer of Unit is Joint 17
20. Mortgaging a Unit - Priority 17
21. Damage, Destruction, Obsolescence, or Condemnation ..17
22. Revocation or Amendment to Declaration 21
23. Additions, Alterations, and Improvements, General and Limited Common Elements 22
24. Restrictive and Affirmative Covenants 23
25. Exculpatory Clause.....25
26. Registration by Owner of Mailing Address 25
27. VA/FHA Approval 25
28. Subdivision and Recombination of Units 26
29. Reservation to Enlarge Condominium Project 26
30. Plan of Timeshare Ownership 27
31. General 28
32. Rights of Declarant 28

7/19/84

CONDOMINIUM DECLARATION
FOR
CABIN CREEK CONDOMINIUMS

This Declaration of Covenants, Conditions and Restrictions, hereinafter called "Declaration", is made and executed in Summit County, Colorado, this ___ day of _____, 1984, by John L. Cowger, hereinafter called "Declarant".

RECITALS

WHEREAS, Declarant is the owner of certain real property in the County of Summit, State of Colorado, more particularly described in Exhibit A attached hereto and hereinafter the "Property".

WHEREAS, Declarant intends to construct certain improvements on the Property which consist of condominiums for residential purposes.

WHEREAS, Declarant desires to establish a condominium project to be known as Cabin Creek Condominiums upon the Property and to sell the same to various purchasers subject to the covenants, conditions, and restrictions reserved in this Declaration.

WHEREAS, Declarant intends by filing this Declaration to submit the Property and all buildings, structures, and other improvements thereon, together with all appurtenances thereto, to the provisions of this Declaration and to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all of the Condominium Units and the Owners.

NOW, THEREFORE, Declarant does hereby publish and declare that the Condominium Project shall be held, conveyed, hypothecated, encumbered, leased, rented, occupied, and used subject to the terms of this Declaration, all of which shall be deemed to run with the land, be a burden and a benefit to all persons acquiring or owning an interest in the Property and improvements, their grantees, heirs, executors, administrators, devisees, or assigns.

1. Definitions. Unless the context shall expressly provide otherwise:

(a) "Unit" means an individual air space contained within the windows, doors and finished perimeter walls, floors (or lowermost floors, if it is an individual air space Unit containing more than one level) and ceilings (or the uppermost ceilings, if it is an individual air space Unit containing more than one level) of each Unit as shown on the Condominium Map to be filed for record, together with: (i) all fixtures and improvements therein contained except for common physical utility facilities; and (ii) the interior nonsupporting walls within the Unit. The term "finished perimeter walls, floors, and ceilings" as used herein shall include any paint, carpeting, wallpaper, paneling, or other wall, floor or ceiling decorator treatment, but "Unit" does not include any utility facilities or flues running through the Unit that serve another Unit, or any other common element or part thereof located within the Unit. The fire box of each fireplace opening into a Unit shall be considered part of the Limited Common Elements of the Unit into which it opens, as shown on the Map.

(b) A "Condominium Unit" means the fee simple interest and title in and to a Unit together with an appurtenant undivided interest in the Common Elements as shown on Exhibit B, and all other rights and burdens created by this Declaration.

(c) "Owner" means a person, firm, corporation, partnership, cooperative association, association, or other legal entity, or any combination thereof, which own(s) one or more Condominium Units.

(d) "Common Elements" means the General Common Elements and all Limited Common Elements.

(e) "General Common Elements" means all of the Project, except all of the Units and the Limited Common Elements as hereinafter defined, including, but not limited to:

(1) the Property;

(2) all structural components, including but not limited to the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, stairs, stairways, fire escapes, entrances, and exits of such building or buildings, partition walls, non-perimeter floors, non-perimeter division walls, and heat ducts;

(3) green, open space, or landscaped areas, yards, gardens, walks, common walkways, unassigned parking areas and storage spaces;

(4) installations of central services such as power, lights, gas, hot and cold water, heating, waste removal, other utilities (including all pipes, ducts, flues, wires, cable and conduit used in connection with such items, whether located in common areas or within Units) but, expressly excluding all utilities commencing at a point where they enter a Unit and which serve only a single Unit;

(5) the tanks, pumps, motors, fans, compressors, ducts in general and all equipment existing for common use;

(6) all other parts of the Project necessary or convenient to its existence, maintenance, and safety where normally in common use.

(f) "Limited Common Elements" means those Common Elements which are either limited to and reserved for the exclusive use of an Owner or are limited and reserved for use by more than one, but fewer than all, of the Owners of the Condominium Units as designated, located, or shown on the Condominium Map by legend, symbol, or word.

(g) "Condominium Project" or "Project" means all of the Property and improvements submitted to this Declaration and subsequently submitted improvements, if any, as hereinafter provided.

(h) "Common Expenses" mean and include expenses of administration, operation, and management of the Project, and the expense of maintenance, repair or replacement of the Common Elements and all other expenses declared Common Expenses by provisions of this Declaration and the Bylaws of the Association.

(i) "Association of Unit Owners" or "Association" means the Cabin Creek Condominium Association, a Colorado corporation, not for profit, its successors and assigns, the Articles of Incorporation and Bylaws of which, together with this Declaration, shall govern the administration of the Project, and the members of which shall be all of the Owners of the Condominium Units in this Project.

(j) "Condominium Map" or "Map" means the plat of the Cabin Creek Condominiums, as recorded under Reception No. _____ of the Summit County, Colorado records.

The initial Map and each supplement thereto shall be recorded prior to the conveyance of any of the Condominium Units shown thereon. The initial Map and the supplements thereto shall show at least the following:

The legal description of the land and a survey thereof; the location of the Units, both horizontally and vertically; the location of the improvements with respect to the exterior boundaries of the Property; the floor and elevation plans; the thickness of the common walls between or separating the Units; the location of any structural components or supporting elements located within the Unit; the Unit designation; the building designation; and the certificate of a registered professional engineer, licensed architect, or registered land surveyor certifying that the Map was prepared after substantial completion of the improvements shown thereon and is in substantial compliance with the boundaries, measurements, and improvements shown thereon. Declarant reserves the right to amend the Map, from time to time, to conform the same according to the actual location of any of the improvements and to establish, vacate and relocate easements, access roads and on-site parking areas.

(k) "Property" means the land encompassing the Condominium Project being a portion of the Flora Placer, U.S. Survey No. 1362 in Sections 34 and 35, Township 5 South, Range 79 West of the 6th P.M., being more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

(l) "Mortgage" as used herein shall mean any mortgage, deed of trust, or other document pledging a Condominium Unit or interest therein as security for the payment of a debt or obligation.

(m) "Mortgagee" shall mean any person, corporation, partnership, trust, company, association, or other legal entity which takes, owns, holds, or receives a mortgage or deed of trust. "First Mortgagee" is that which is the first and most senior of any duly recorded Mortgages or Deeds of Trust encumbering a Condominium Unit.

2. Division of Property into Condominium Units. The Property is hereby divided into four (4) fee simple estates, each such estate consisting of one Condominium Unit. The Common Elements shall be held in common by the Owners in the

fractional undivided interests set forth in Exhibit B attached hereto and hereby incorporated by reference.

3. Inseparability of a Condominium Unit. Each Unit and the appurtenant undivided interest in the Common Elements shall together comprise one Condominium Unit, shall be inseparable, and may be conveyed, leased, devised, or encumbered only as a Condominium Unit.

4. Limited Common Elements. Subject to the definition thereof, the Limited Common Elements shall be identified on the Map. Any porch, patio, or deck, which is accessible from, associated with, and which adjoin(s) a Unit shall without further reference thereto be used in connection with such Unit to the exclusion of the use thereof by the other Owners of the Common Elements, except by invitation.

Except as provided above, all of the Owners of Condominium Units in this Condominium Project shall have a non-exclusive right in common with all of the other Owners to the use of sidewalks, open areas, streets, parking areas, and drives located within the entire Condominium Project. In addition to rights of use described in this Declaration, the Association, its Board of Managers and its Managing Agent shall have the unrestricted irrevocable easement to utilize any portion of the Common Elements which may be necessary in order to maintain, repair or replace General and/or Limited Common Elements. No reference need be made of any such Limited Common Elements which are exclusive or nonexclusive, in any instrument of conveyance, or other instrument in accordance with Section 5 of this Declaration, except as specifically hereinabove required.

5. Description of a Condominium Unit. A Contract for the sale of a Unit written prior to the filing for record of this Declaration and the Map may legally describe a Condominium Unit by its identifying Unit number, followed by the words Cabin Creek Condominiums without further reference to the Declaration and the Map.

Subsequent to the filing of the Map and the recording of the Declaration, every deed, lease, mortgage, trust deed, will, or other instrument may legally describe a Condominium Unit as follows:

> Condominium Unit No. _____, Building _____, according to the Condominium Declaration for Cabin Creek Condominiums recorded _____, 198__, at Reception No. _____, and the Map thereof recorded on _____, 198__, at Reception No. _____ of the Summit County, Colorado records.

Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber, or otherwise affect not only the Unit but also the Common Elements appurtenant thereto.

6. Ownership - Title. A Condominium Unit may be held and owned by more than one person as joint tenants or as tenants-in-common, or in any real property tenancy relationship recognized under the laws of the State of Colorado.

7. Non-Partionability of Common Elements. The Common Elements shall be owned in common by all of the Owners of the Condominium Units and shall remain undivided, and no Owner shall bring any action for partition or division of the Common Elements. Further, all Owners and the Association covenant that, except as provided in Section 21 hereof, they shall neither by act nor omission seek to abandon, subdivide, encumber, sell, or transfer the common elements without first obtaining the written consent of sixty-seven percent (67%) of the first Mortgagees of the individual Condominium Units. Each such first Mortgagee shall have one vote for each first mortgage owned by it. Any such partition action without the written consent of said first Mortgagees shall be null and void.

8. Use of General and Limited Common Elements. Each Owner shall be entitled to exclusive ownership and possession of his Unit and the right of ingress and egress to his Unit from a public way. Each Owner may use the appurtenant General and Limited Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners. The Association may adopt rules and regulations governing the use of General and Limited Common Elements, but such rules and regulations shall be uniform and nondiscriminatory. Each Owner, by the acceptance of his deed or other instrument of conveyance or assignment, agrees to be bound by the existing and thereafter adopted rules and regulations. The Association shall be empowered to adopt rules and regulations governing the use of parking areas, provided that any such rules and regulations shall be uniform and nondiscriminatory. Any Owner may delegate his right to use the Common Elements to the members of his family, his tenants, or contract purchasers who reside in his Unit.

9. Easements. Each Condominium Unit in the Project shall be subject to the following easements:

(a) Utility Easements: There are hereby dedicated non-exclusive easements for the installation, maintenance, and use of utility lines serving one or more of the Units. The easements are granted to the Association, and the location of the easements are on and beneath the surface of the ground where the existing water, sewer, electric, telephone, and cable television lines are now or are hereafter installed. Parties providing or maintaining utilities shall have the right to enter upon the easements at any reasonable time for the maintenance, repair, and servicing of these utility lines, but the Association will have complete authority to control the location and installation of utilities on Common Elements. No Owner shall commit an act or omission which would cause an interruption in the utility service to another.

(b) Easement for Encroachments: If any portion of a structure built by Declarant encroaches upon or over an adjoining Unit or Units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered and determined to be encumbrances on the Units. Encroachments referred to herein include, but are not limited to, encumbrances caused by error in the original construction of any improvements, by error in the Map, by settling, rising or shifting of the earth, or by changes in the position caused by repair or reconstruction of the Project or any part thereof. Encroachments referred to herein specifically do not include encumbrances caused by the act of any Owner.

(c) Easement for Repairs, Maintenance and Emergencies: Some of the utility services and structural members are, or may be, located within a Unit or may be conveniently accessible only through a Unit. The Association shall have a non-exclusive easement for access through each Unit, from time to time, during such reasonable hours as may be necessary for the maintenance, repair, or replacement of any of the utilities or structural members located therein or accessible therefrom or for making any repairs therein necessary to prevent damage to another Unit. Damage to the interior or any part of a Unit resulting from emergency repairs, at the instance of the Association, shall be a Common Expense of all Owners. No diminution or abatement of Common Expense assessments shall be claimed or allowed for inconvenience or discomforts arising from the making of repairs and improvements or for action taken to comply with any law, ordinance or order of any governmental authority. Restoration of the damaged improvements shall be to substantially the same condition in which they existed prior to the damage. The foregoing notwithstanding, if any such damage is the result of the carelessness or the negligence of any Owner, then such Owner shall be solely responsible for the costs and expenses of repairing the damage.

(d) General Common Elements Easement: Each Owner, his invitees, guests, and family shall have a non-exclusive easement over and across the General Common Elements and parking area for ingress, egress, recreation, parking, and other purposes pursuant to Rules and Regulations that may be adopted from time to time by the Board of Managers.

(e) Emergency Easement: An easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons to enter upon all streets and upon the Project in the performance of their duties.

(f) Recorded Easements and Licenses: The Property is subject to easements and licenses of record as follows:

1) Order of Inclusion of subject property within the Frisco Sanitation District recorded February 17, 1982 under Reception No. 236254.

2) Annexation and Zoning Agreement with the Town of Frisco recorded April 22, 1982 under Reception No. 238829.

10. Owners' Maintenance Responsibility for Unit.

(a) For maintenance purposes, an Owner shall be deemed to own: the windows and doors; the interior nonsupporting walls, floors, and ceilings of his Unit; the materials such as, but not limited to, plaster, gypsum drywall, paneling, wall paper, paint, wall and floor tile, finished surface flooring, and other materials which make up the finished surfaces of the perimeter walls, floors, and ceilings within the Unit. An Owner, however, shall not be deemed to own the pipes, wires, conduit, or systems (which are General Common Elements and for brevity are referred to as "utility facilities") running through his Unit which serve one or more other Units, except as a tenant in common with the other Owners. Such utility facilities shall not be disturbed or relocated by an Owner without the prior written consent of the Board of Managers; and any such alteration, relocation, enlargement, addition, or modification shall be at the Owner's expense, which expense shall include all expenses incurred by the Association in reference thereto.

(b) An Owner shall maintain the interior of his own Unit, including the fixtures and utilities located therein to the extent current repair shall be necessary in order to avoid damaging other Condominium Units or the Common Elements. All fixtures, equipment, and utilities installed within a Unit commencing at a point where they enter a Unit and which service only that Unit, shall be maintained and kept in repair by the Owner thereof. An Owner shall permit no act that will impair the structural soundness of the buildings or impair the proper functioning of the utility facilities or heating, electrical, fire extinguishing, air and ventilation or conditioning, or plumbing systems or the structural integrity of the buildings or impair any easement or damage any other component of the Project. An Owner shall always keep the decks adjoining and appurtenant to his Unit and any other Limited Common Elements appurtenant thereto in a safe, clean, and orderly condition.

11. Termination of Mechanic's Lien Rights and Indemnification. No labor performed or materials furnished and incorporated in a Unit with the consent or at the request of the Owner or his agent or his contractor, materialman, or subcontractor shall be the basis for filing of a lien against the Unit of any other Owner not expressly consenting to or requesting the same, or against the Common Elements. Each Owner shall indemnify and hold each of the other Owners harmless from and against all liability or loss arising from the claim of any lien against the Unit of any other Owner or against the Common Elements for construction performed or for labor or materials incorporated in the Owner's Unit at such Owner's request. The Board of Managers identified in Paragraph 12(c) may in its discretion enforce such indemnity by collecting from the Owner of the Unit on which labor was performed and materials furnished, the amount necessary to discharge any lien and all costs incidental thereto, including reasonable attorney's fees. If such amount is not promptly paid, the Board of Managers may collect the same in the manner provided herein for the collection of Assessments.

No mechanic's lien filed against all or part of the Property will be a valid lien except against the Unit or Units for which work was performed or materials were provided, and which are described in the lien statement. No other lien arising under the laws of Colorado shall relate to the entire Property, but shall relate only to one or more individual Units.

12. Administration and Management; Association; Managing Agent.

(a) The Association will be formed to manage the Common Elements as provided in this Declaration and to further the interest of all Owners of Units in the Project. The Association shall have all powers necessary or desirable to effectuate such purposes. Subject to the provisions of this Declaration, the administration and management of the Association shall be governed by the Articles of Incorporation and Bylaws thereof. An Owner of a Unit, upon becoming an Owner, shall be a member of the Association and shall remain a member for the period of his ownership.

(b) An Owner shall be entitled to one vote for each Unit owned.

(c) The affairs of the Association shall be managed by a Board of Managers as is provided in the Articles of Incorporation and Bylaws of the Association. Notwithstanding anything to the contrary provided herein, until seventy-five percent (75%) of the Units within the Project have been sold (meaning that title to these Condominium Units has been conveyed by the Declarant) or until January 1, 1991, whichever is earlier, the members of the Board of Managers shall be appointed by the Declarant and need not be Owners of Condominium Units. The

Declarant shall have the option at any time to turn over control of the Board of Managers to the Owners upon sixty days' prior written notice.

(d) The Board of Managers may by resolution delegate any of its duties, powers, and functions to a person or firm which will act as Managing Agent. No agreement for professional management of the Property, or any other contract providing services of the Declarant, may exceed three (3) years; any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice. A portion of the Common Elements including improvements thereon may be used by either the Association or both the Association and Managing Agent as and for the offices in connection with administration and management.

13. Powers and Duties of the Association. By way of enumeration and without limitation the Association shall have the following powers and duties:

(a) Association as Attorney-in-Fact for Owners: The Association is hereby irrevocably appointed attorney-in-fact for the Owners, and each of them, to manage, control, and deal with the interest of such Owner in the Common Elements so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder, to deal with the Project upon its destruction or obsolescense as hereinafter provided and to grant utility and other easements and rights of way through any portion of the Common Elements. The acceptance by any Owner of any interest in any Unit shall constitute an appointment of the Association as attorney-in-fact as provided in this Declaration. The Association shall be granted all of the powers necessary to govern, manage, and maintain the Project and to perform all of the duties required of it. Notwithstanding the above, unless sixty-seven per cent (67%) of the first Mortgagees of Condominium Units and seventy-five percent (75%) of the Owners have given their prior written approval, the Association shall not be empowered or entitled to:

(i) by act or omission, seek to abandon or terminate the Project;

(ii) partition or subdivide any Condominium Unit;

(iii) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer any of the Common Elements. The granting of easements for utilities or for other purposes consistent with the intended use of the Common Elements by the Condominium Project shall not be deemed a transfer within the meaning of this clause;

(iv) use hazard insurance proceeds from loss to the improvements for purposes other than repair, replacement, or reconstruction of such improvements; or

(v) change the pro rata ownership interest or obligation of a Unit for the purpose of allocating the proceeds of hazard insurance or condemnation awards, or in order to alter the percentage of ownership interest of a Unit in the Common Elements.

(b) Common Elements: The Association, subject to the rights and obligations of Owners with respect to the interior of the Units as specified in Section 10 (a) & (b), shall be responsible for the exclusive management and control of the General Common Elements and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in clean and attractive condition. The Association shall be responsible for the maintenance and repair of exterior surfaces of the Project, including without limitation, painting as often as necessary, the replacement of trim and caulking, the maintenance and repair of roofs, decks and stairways, the maintenance and repair of other General Common Elements, including utility lines, and other improvements or materials located within or used in connection with the General Common Elements. The specifications of duties of the Association with respect to particular Common Elements shall not be construed to limit its duties with respect to other Common Elements, as set forth in the first sentence of this Section. The cost of such management, operation, maintenance and repair by the Association shall be borne as a Common Expense.

(c) Other Association Functions: The Association may undertake any activity, function, or service for the benefit of or to further the interests of all, some, or any Owners of Units on a self-supporting, special assessment, or common assessment basis.

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

(e) Property of Association: The Association may pay for, acquire, and hold tangible and intangible personal property and may dispose of the same by sale or otherwise. Upon termination of the Project and dissolution of the Association, if ever, the beneficial interest in any such property shall be deemed to be owned by the then Owners as tenants in common in the same proportion as their respective interest in the Common Elements. A transfer of a Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto. Each Owner may use such property in accordance with the purposes for which it is intended, without hindering or encroaching upon the lawful rights of the other Owners. The transfer of title to a Unit under foreclosure shall transfer ownership in such property associated with the foreclosed Unit.

(f) Association Right to Lease and License Common Elements: Subject to the requirements of Paragraph 13(a)(iii), the Association shall have the right to lease or license or permit the use of, by less than all Owners or by non-owners on either a short-term or long-term basis and with or without charge as the Association may deem desirable, any portion of the Common Elements or any Unit owned by the Association. The rights granted to the Association in this subparagraph shall only be used in the promotion of the collective best interests of the Owners.

(g) Mortgagee Inspection: The Association shall grant to each first Mortgagee of a Condominium Unit the right to examine the books and records of the Association at any reasonable time.

(h) Rules and Regulations: The Association shall have the right to adopt such bylaws and to promulgate such reasonable rules and regulations as it deems necessary or desirable to effectuate the intent and to enforce the duties and obligations set forth in the Declaration and the Articles of Incorporation and Bylaws of the Association.

(i) Enforcement by Association: The Association may suspend any Owner's voting rights in the Association or the right of an Owner to use the Common Elements during any period or periods during which such Owner fails to comply with the Association's rules and regulations, or with any other obligations of such Owner under this Declaration, the Articles of Incorporation or Bylaws. The Association may also take judicial action against any owner to enforce compliance with such rules, regulations or other obligations or to obtain damages for noncompliance, all to the extent permitted by law.

(j) Implied Rights: The Association shall have and may exercise any right or privilege given to it expressly by this Declaration, or reasonably to be implied from the provisions of this Declaration, or given or implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges.

14. Insurance.

(a) The Board of Managers shall obtain and maintain at all times, to the extent obtainable, policies involving standard premium rates and written with companies licensed to do business in Colorado and having a Best's Insurance Report rating of Class VI or better, covering the risks set forth below. The Board of Managers of the Association shall not obtain any policy where: (i) under the terms of the insurance company's charter, bylaws or policy, contributions or assessments may be made against the Mortgagor or Mortgagee; or (ii) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the company's Board of Directors, policyholders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent Mortgagees or the Mortgagor from collecting insurance proceeds. The types of coverages to be obtained and risks to be covered are as follows:

(i) Fire insurance with extended coverage and standard all-risk endorsements, which endorsements shall include endorsements for vandalism and malicious mischief. This casualty insurance shall insure the entire Project, and any property the nature of which is a Common Element and all of the Units and fixtures therein initially installed by the Declarant and including the inner carpeted, decorated, and finished surfaces of such Units' perimeter walls, floors, ceilings, and interior nonsupporting walls, and including built-in appliances, but not including furniture, furnishings, or other personal property supplied by or installed by an Owner, together with all service equipment contained therein in an amount equal to the full replacement value, without deduction for

depreciation. All policies shall contain a standard non-contributory mortgage clause in favor of each Mortgagee of a Unit, which shall provide that the loss, if any, thereunder, shall be payable to the Association for the use and benefit of Mortgagees as their interests may appear. Prior to obtaining any policy of casualty insurance or renewal thereof, pursuant to the provisions of this insurance paragraph, the Board of Managers or Managing Agent shall obtain an appraisal from a duly qualified real estate or insurance appraiser, which appraiser shall reasonably estimate the full real replacement value of the entire Project, without deduction for depreciation, for the purpose of determining the amount of the insurance to be effected pursuant to the provisions of this insurance paragraph. In no event shall the insurance policy contain a co-insurance clause for less than one hundred percent (100%) of the full replacement. Determination of maximum replacement value shall be made annually by one or more written appraisals to be furnished by a person knowledgeable of replacement cost, and each first Mortgagee, if requested, shall be furnished with a copy thereof, within thirty (30) days after receipt of such written appraisals. Such amounts of insurance shall be contemporized annually in accordance with their currently determined maximum replacement value.

(2) If any part of the improvements on the Property are located in an area ever identified by the Secretary of Housing and Urban Development as an area having special flood hazard and the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, a "blanket" policy flood insurance on the applicable portion of the Property in an amount which is the lesser of the maximum amount of insurance available under the Act or the aggregate of the unpaid principal balances of the Mortgages on the Units within the designated area.

(3) Public liability and property damage insurance in such limits as the Board of Managers of the Association may from time to time determine, but not in an amount less than $500,000.00 per occurrence and umbrella liability limits of $1,000,000.00 per occurrence, covering claims for bodily injury and property damage. Coverage shall include, without limitation, liability or personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance, and other use of the Project. The policy shall also contain a "severability of interest" endorsement.

(4) Workman's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms required by law.

(5) The Association shall purchase adequate fidelity

coverage against dishonesty of employees, destruction, or disappearance of money or securities and forgery in an amount at least equal to one hundred fifty per cent (150%) of the Association's annual operating expenses. Said policy shall also contain endorsements thereto covering any persons who serve the Association without compensation.

(6) The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Project, including glass and any personal property of the Association.

(b) All policies of insurance to the extent obtainable shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of a Condominium Unit Owner and shall provide that such policies may not be cancelled or modified without as least ten (10) days prior written notice to all of the insured, including first Mortgagees. If requested in writing by any Mortgagee, a duplicate original of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered to that Mortgagee at least ten (10) days prior to expiration of the then current policies. The insurance shall be carried in blanket form naming the Association as the insured, as attorney-in-fact for all of the Condominium Unit Owners, which policy or policies shall identify the interest of each Condominium Unit Owner (Owner's name and Unit number designation) and first Mortgagee. Further, the Association shall require the insurance company or companies providing the insurance coverages described herein to provide each Owner and Mortgagee a Certificate of Insurance in regard to such Owner's individual Condominium Unit.

Water Damage Coverage $1000 deductible

(c) Condominium Unit Owners may carry other insurance for their benefit and at their expense, provided that all such policies shall contain waivers of subrogation, and provided further that the liability of the carriers issuing insurance obtained by the Board of Managers shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

(d) Insurance coverage on furnishings, including draperies and other items of the personalty or other property belonging to an Owner and public liability coverage with each Unit shall be the sole and direct responsibility of the Unit Owner thereof, and the Board of Managers, the Association, and the Managing Agent shall have no responsibility therefor.

(e) In the event that there shall be any damage or destruction to, or loss of or taking of a Unit which exceeds $1,000.00 or any damage or destruction to, or loss to or taking of the Common Elements which exceeds $10,000.00, then notice of such damage or loss or taking shall be given by the Association to each first Mortgagee of the affected Unit(s) within ten (10) days after the occurrence of such event and the cost of repair is determined.

15. Compliance with Provisions of Declaration, Articles of Incorporation, and Bylaws of the Association. Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation, and Bylaws of the Association, and the decisions, rules, and resolutions of the Association

adopted pursuant thereto may be lawfuly amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief or both, maintainable by the Managing Agent or Board of Managers in the name of the Association on behalf of the Owners or, in proper case, by an aggrieved Owner.

16. Assessment for Common Expenses.

(a) All Owners, excluding the Declarant, shall be obligated to pay the estimated Common Expense assessments and any special or other assessments (hereinafter sometimes referred to as "assessments") imposed by the Board of Managers of the Association to meet the Common Expenses and reserves. The assessments shall be divided among all of the Units according the percentage of ownership of the Common Elements as stated in Exhibit B hereto. The Declarant shall have no obligation to pay the estimated Common Expense assessment imposed by the Board of Managers of the Association to meet the Common Expenses and reserves on units owned by the Declarant, provided, however, that in the event that, prior to the date upon which Declarant no longer is able to elect the Board of Managers of the Association, as set forth in Section 12 (c) herein, assessments for Common Expenses, excluding those amounts necessary for an adequate reserve fund and for the working fund, fail to equal or exceed the actual expenses incurred by the Association during any Common Expense assessment period because of such partial Declarant assessment, then, within thirty (30) days of receipt of written notice of such shortfall, Declarant shall pay a sufficient amount, up to the amount of full parity on such assessments, to the Association to meet any such shortfall, provided, however, that Declarant shall have no obligation for any such shortfall caused by expenditures for capital improvements, or by any decrease in assessments, including without limitation the levying of any Common Expense assessments in an amount less than the maximum for any annual Common Expense assessment period, which the same has been previously approved in writing by Declarant. After the Declarant no longer can appoint the Association's Board of Managers as described in Section 12(c) herein, Declarant shall be subject to the same Common Expense assessments as are applicable to a comparably sized Condominium Unit owned by the other Owners.

(b) Except as provided elsewhere in the Declaration, the Limited Common Elements shall be maintained as General Common Elements (except, however, this shall not impose upon the Association the obligation to clear decks, balconies or porches), and Owners having exclusive use thereof shall not be subject to any special charges or assessments for the repair or maintenance thereof. Assessments for the estimated Common Expenses shall be due in advance on the first day of each calendar month. If any such monthly installments shall not be paid within ten (10) days after it shall become due and payable, the Association's Board of Managers may assess a "late charge" thereon in an amount to be established by the Board of Managers pursuant to the Bylaws to cover the extra cost and expenses involved in handling such delinquent assessments. Each Owner hereby agrees that the Association's lien on a Condominium Unit for assessments as hereinbefore described shall be superior to the Homestead Exemption provided by Section 38-41-201, C.R.S.

1973 and under federal law. Each Owner hereby agrees that the acceptance of the deed or other instrument of conveyance in regard to any Condominium Unit within this Project shall signify such grantee's waiver of the Homestead right granted in said Section of the Colorado statutes and federal law as against said assessment lien. The Association or Board of Managers shall cause to be prepared, and delivered or mailed to each Owner at least once each year a payment statement setting forth the estimated common expense assessments for the ensuing year.

(c) In the event the ownership of a Condominium Unit, title to which is derived from the Declarant, commences on a day other than the first day of the assessment period, the Common Expense assessment for that period will be prorated.

(d) Each Common Expense assessment shall commence as to all Condominium Units on the first day of the month following the conveyance of the first Condominium Unit. The first annual Common Expense assessment shall be adjusted according to the number of months remaining in the calendar year. Commencing with the second assessment year and thereafter, the Common Expense assessments shall be based upon the cash requirements deemed to be such aggregate sum as the Board of Managers of the Association shall determine, at least thirty (30) days in advance of each year, as necessary to provide for the payment of all estimated expenses relating to or connected with the administration, maintenance, ownership, repair, operation, addition, alteration, and improvement of the Common Elements, the Project, and personal property owned by the Association. This sum may include, but shall not be limited to, expenses for management tasks and special assessments until separately assessed, insurance; landscaping and care of grounds; common lighting and heating, or other utilities; repairs and renovations; trash collections; wages; common water and sewer charges; legal and accounting fees; management fees; expenses and liabilities incurred by the Association's Board of Managers on behalf of the Unit Owners under or by reason of this Declaration and the Articles of Incorporation and Bylaws of the Association; for the creation of reasonable contingency reserves, working and sinking funds; and any and all other costs and expenses relating to the Common Elements and the Project. Written notice of the assessment shall be sent to every Owner. The due dates for each monthly installment of the annual Common Expense assessment shall be established by the Board of Managers.

(e) Each Owner shall be obligated to pay all charges for any separately metered utilities servicing his Condominium Unit. In the event that any utilities are master metered, then such utility service shall be assessed pro rata to each Unit within a building on the basis that the square footage of the Unit bears to all square footage of Units served by the meter, and shall be in the nature of a special assessment and shall entitle the Association to all of the remedies for nonpayment as set forth herein.

(f) The omission or failure to fix the assessment or deliver or mail a statement for any period shall not be deemed a waiver, modification, or release of the Owners from their obligations to pay it.

(g) The Association shall be obligated to establish a reserve fund for the maintenance, repair, and replacement of those Common Elements that must be replaced periodically; and this reserve fund shall be funded through the monthly

payments of the Common Expenses and not be extraordinary special assessments.

(h) Each Owner, other than the Declarant, shall be required to deposit at the time of initial purchase a sum equal to three (3) times the monthly installment of the Common Expense assessment for that Condominium Unit, which sum shall be held in a segregated account by the Association and shall be used by its Board of Managers as a reserve for the use and benefit of the Association, including, without limitation, to insure that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment deemed necessary or desirable by the Association's Board of Managers. Such advance payment shall not relieve an Owner from making the regular monthly common expense assessment as it comes due. Upon the sale of a Condominium Unit, its Owner shall be entitled to a credit from his grantee for any unused portion of such payment. Failure to so maintain this fund shall constitute a default on behalf of an Owner and the Association shall be entitled to proceed under the remedies granted to it in Section 18 hereof. At the time of lease, rental, or other occupancy of a Unit owned by the Declarant (but not including a Unit used by Declarant exclusively for business office purposes during the period of construction and sales or used exclusively for show purposes during this period) the Declarant shall also be required to deposit into this fund a sum equal to that previously described.

(i) In addition to the assessments authorized above, the Association may at any time and from time to time determine, levy, and assess, in any assessment year which determination, levy, and assessment may be made by the Association's Board of Managers with the consent of three fourths (3/4) of the votes of the members of the Association who are voting in person or by proxy, a special assessment applicable to that particular assessment year for the purpose of defraying, in whole or in part, payments for any deficit remaining from a previous period and the unbudgeted costs, fees, and expenses of any construction, reconstruction, repair, demolition, replacement, or maintenance of the Common Elements, including any fixtures and personal property relating thereto. The amounts determined, levied, and assessed pursuant hereto shall be assessed to each Owner according to the percentage of ownership of Common Elements, as set forth in Subsection (a) of this Section 16, and shall be due and payable as set forth in the Notice of Assessment promulgated by the Association's Board of Managers.

(j) All Owners of a particular Condominium Unit shall be jointly and severally liable to the Association for the payment of all assessments attributable to that Condominium Unit, including the annual assessment for common expenses and special assessments assessed against that particular Condominium Unit.

(k) Upon payment of a reasonable fee to be determined by the Board of Managers pursuant to the Bylaws and upon the written request of any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Condominium Unit, the Association shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Condominium Unit. Unless such request shall be complied with within twenty (20) days after receipt of said request by the Association, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. If the request is made by a prospective purchaser, both the lien for the unpaid assessment and the personal

obligations of the purchaser shall be released automatically if the statement is not furnished within this twenty (20) day period; provided thereafter, an additional written request is made by such purchaser and is not complied with within ten (10) days and the purchaser subsequently acquires the Condominium Unit.

17. Owners' Personal Obligation for Payment of Assessments. The amount of the assessment shall be the personal and individual debt of the Owner thereof. No Owner may exempt himself from liability for the assessment by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his real property interest. In the event of default in the payment of the assessment, the Owner shall be obligated to pay interest at the rate of 18% per annum from the date of the assessment together with all expenses, including attorney's fees, incurred in the collection thereof. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the assessment lien.

18. Assessment Lien. All sums assessed, but unpaid, for the share of expenses chargeable to any Condominium Unit shall constitute a lien on that Condominium Unit superior to all other liens and encumbrances, except only for:

(a) Tax and special assessment liens on the Condominium Unit in favor of any governmental unit, and

(b) All sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance; except, however, a recorded association assessment lien shall be superior to any subsequently recorded mortgage or deed of trust.

To evidence such a lien, the Board of Managers or the Managing Agent shall prepare a written notice of lien assessment setting forth the amount of unpaid indebtedness, the name of the Owner of the Condominium Unit, and a description of the Condominium Unit. The notice shall be signed by one of the Board of Managers or by one of the officers of the Association or by the Managing Agent and shall be recorded in the office of the Clerk and Recorder of Summit County, Colorado. The lien for the Common Expenses shall attach from the date of such recordation. Such lien may be enforced by the foreclosure of the defaulting Owner's Condominium Unit by the Association in like manner as a mortgage on real property subsequent to the recording of a notice or claim thereof. In any such proceedings the Owner shall be required to pay the costs, expenses, and attorney's fees incurred for filing the lien; and in the event of foreclosure proceedings, the additional costs, all expenses, and reasonable attorney's fees incurred. The Owner of the Unit being foreclosed shall be required to pay to the Association the monthly assessment for the Unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power to bid in the Unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the Unit.

Any first Mortgagee who obtains title to a Unit pursuant to foreclosure of the mortgage or deed of trust, or by a deed in lieu thereof, will not be liable for such Unit's unpaid assessments which accrue prior to acquisition of title to the Unit by the Mortgagee.

(c) The Declarant states in accordance with the requirements of the Colorado Condominium Ownership Act that it is possible that liens other than mechanic's liens, assessment liens, and tax liens may be obtained against the Common Elements.

19. Liability for Common Expense Upon Transfer of Condominium Unit is Joint. The grantee of a Condominium Unit, except a first Mortgagee who acquires a Condominium Unit by foreclosure or a deed in lieu of foreclosure, shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his proportionate share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

20. Mortgaging a Condominium Unit -- Priority. Any Owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage, or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The Owner of a Condominium Unit may create junior mortgages on the following conditions: (1) that any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for Common Expenses, and other obligations created by this Declaration, the Articles of Incorporation, and the Bylaws of the Association; and (2) that the Mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title, and interest in and to the proceeds under all insurance policies upon said premises which insurance policies were placed upon the mortgaged premises, by the Association. Such release shall be furnished forthwith by a junior Mortgagee upon written request of the Association, and if not furnished, may be executed by the Association as an attorney-in-fact for such junior mortgagee.

21. Damage, Destruction, Obsolescence, or Condemnation. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the Project upon its destruction or obsolescense. Title to any Condominium Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in their name, place, and stead for the purpose of dealing with the Project upon its destruction or obsolescence as is hereinafter provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant Secretary, shall have full and complete authorization, right, and power to execute and deliver any contract, deed, or any other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the powers herein granted. In the event that the Association is dissolved or becomes defunct, a meeting of the Condominium Unit Owners shall be held within thirty (30) days after either such event. At such meeting a new attorney-in-fact, to deal with the Project upon its destruction, damage, obsolescence, or condemnation shall be appointed. Said appointment must be approved by the Owners representing an aggregate ownership interest of seventy-five percent (75%) or more of the common elements and at least seventy-five percent

(75%) of the First Mortgagees of the Condominium Units. Repair and reconstruction of the improvement(s) as used in the succeeding subparagraphs means restoring the improvement(s) to substantially the same condition in which it existed prior to the damage, with each Unit and the Common Elements having substantially the same boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration, or replacement unless the Owners and all first Mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

(a) Except as provided in subsections (d) and (e) below, in the event of damage or destruction due to fire or other disaster, the insurance proceeds shall be applied by the Association, as attorney-in-fact, to reconstruction, and the improvement shall be promptly repaired and reconstructed. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair and restoration of the improvement. Assessments for common expenses shall not be abated during the period of insurance adjustments and repair and reconstruction.

(b) In the event the insurance proceeds are insufficient to repair and reconstruct the improvements, the deficiency shall be a Common Expense and pro rata to the extent that the deficiency applies to the Common Elements. To the extent that the deficiency applies to a Unit, the deficiency assessment shall be against the Owner of the damaged Unit. Any such assessments shall be equal to the amount by which the cost of such reconstruction or repair of the improvements on a Unit exceeds the insurance proceeds and other funds allocable to such Unit. The Association shall have full authority, right, and power, as attorney-in-fact to cause the repair or restoration of the improvements using all of the insurance proceeds available to the Owner for such purpose notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of the Owner and a lien on his Unit and may be enforced and collected as provided in Section 16 herein. The delinquent Owner shall be required to pay to the Association the costs and expenses for filing the notices, interest on the amount of the assessment and all reasonable attorney's fees. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

(1) For payment of the balance of the lien of any first Mortgagee;

(2) For payment of taxes and special assessment liens in favor of any assessing entity and customary expenses of sale;

(3) For payment of unpaid Common Expenses and all costs, expenses, and fees incurred by the Association;

(4) For payment of junior liens and encumbrances in the order of and to the extent of their priority; and

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

(c) If the insurance proceeds are insufficient to repair and reconstruct the improvement, and if the damage is not more than seventy per cent (70%) of the total replacement cost of all of the Condominium Units, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of a special assessment to be made against all of the Owners and their Condominium Units, provided, however, that seventy-five percent (75%) of the Owners and at least sixty-seven per cent (67%) of the first Mortgagees of record may agree not to repair or reconstruct the improvements; and in such event, the Association must record a notice setting forth such fact or facts within one hundred eighty (180) days after the casualty, and upon the recording of such notice to the Associaties's President and Secretary or Assistant Secretary, the entire Project shall be sold by the Association pursuant to the provisions of this Section, as attorney-in-fact, for all of the Owners, free and clear of the provisions contained in this Declaration, the Map, Articles of Incorporation, and Bylaws. Assessments for common expenses shall not be abated during the period prior to sale. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each Owner's interest in the common elements, and such divided proceeds shall be paid into separate accounts, each such account representing one of the Condominium Units. Each such account shall be in the name of the Association, and shall be further identified by the Unit designation and the name of the Owner. From each separate account the Association, as attorney-in-fact, shall forthwith use and disburse the total amount of each of such accounts, without contribution from one account to another, toward the partial or full payment of the lien of any first Mortgagee encumbering the Condominium Unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire Property. Such apportionate shall be based upon each Condominium Unit Owner's interest in the Common Elements. The total fund of each account shall be used and disbursed, without contribution from one account to another, by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subsection (b)(1) through (5) of this paragraph. In the event that the damage is to be repaired or reconstruction is to be made then the provisions of subsection (b) of this paragraph shall apply.

(d) Seventy-five percent (75%) of the Owners may agree that the Common Elements are obsolete and adopt a plan for the renewal and reconstruction, which plan has the approval of sixty-seven per cent (67%) of all first Mortgagees of record at the time of the adoption of such plan. If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the Owners as Common Expenses; provided, however, that an Owner not a party to such a plan for renewal or reconstruction may give written notice to the Association within fifteen days (15) after the date of adoption of such plan that such Unit shall be purchased by the Association for the fair market value thereof. The Association shall then have thirty days (30) thereafter within which to cancel such plan. If such plan is not cancelled, the Unit of the requesting Owner shall be purchased according to the following procedures. If such Owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within thirty days (30) thereafter. If the parties are unable to agree, the date when either party notifies

the other that he or it is unable to agree with the other shall be the "commencing date" from which all periods of time mentioned herein shall be measured. Within ten days (10) following the commencement date, each party shall nominate in writing an appraiser and give notice of such a nomination to the other party. If either party fails to make such a nomination, the other appraiser nominated shall, within five days (5) after default by the other party, appoint and associate with him another appraiser. If the two designated or selected appraisers are unable to agree on value, they shall appoint another appraiser to be umpire between them, if they can agree on the same person. If they are unable to agree upon an umpire, each appraiser previously appointed shall nominate two appraisers and from the names of the four appraisers nominated, one shall be drawn by lot by any judge of any court of record in Colorado, and the name so drawn shall be submitted within ten days (10) of the failure of the two appraisers to agree, which, in any event, shall not be later than twenty days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value, or in the case of their disagreement, then such decision of the umpire shall be final and binding. The expenses and fees of such appraisers shall be borne equally by the Association and the Owner. The sale shall be consummated within fifteen days (15) thereafter, and the Association, as attorney-in-fact, shall disburse such proceeds for the same purposes and in the same order as is provided in Subparagraph (b)(1) through (5) of this paragraph, except as modified herein.

(e) Seventy-five percent (75%) of the Owners and sixty-seven per cent (67%) of all first Mortgagees may agree that the Units are obsolete and that the same should be sold. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire premises shall be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Map, and the Articles of Incorporation, and of the Association Bylaws. The sales proceeds shall be apportioned between the Owners on the basis of each Owner's percentage interest in the Common Elements, and such apportioned proceeds shall be paid into separate accounts, each such account representing one Unit. Each such account shall be in the name of the Association, and shall be further identified by the Unit designation and the name of the Owner. From each separate account the Association, as attorney-in-fact, shall use and disburse the total amount (of each) of such accounts, without contribution from one account to another, for the same purposes and in the same order as is provided in Subparagraphs (b)(1) through (5) of this paragraph.

(f) Condemnation. If at any time or times during the continuance of the condominium ownership pursuant to this Declaration, all or any part of the Property shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu or in avoidance thereof, the following provisions of this paragraph shall apply:

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

(2) Complete Taking.

(i) In the event that the entire Property is taken or

condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership pursuant hereto shall terminate. The Condemnation Award shall be apportioned among the Owners on the same basis of each Condominium Unit Owner's interest in the Common Elements; provided however, that if a standard different from the value of the property as a whole is employed as the measure of the Condemnation Award in the negotiation, judicial decree, or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable.

(ii) On the basis of the principle set forth in the preceding paragraph, the Association shall as soon as practicable determine the share of the Condemnation Award to which each Owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner provided in subsections (b)(1) through (5) of this Paragraph.

(3) Partial Taking. In the event that less than the entire Property is taken or condemned, sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award. As soon as practicable the Association shall reasonably and in good faith, allocate the Condemnation Award between compensation, damages or other proceeds and shall apportion the amounts so allocated among the Owners as follows: (i) The total amount allocated to taking of or injury to the Common Elements, shall be apportioned among the Owners on the basis of each Owner's interest respectively in the Common Elements; (ii) the total amount allocated to severance damages shall be apportioned to those Condominium Units which were not taken or condemned; (iii) the respective amounts allocated to the taking of or damages to a particular Unit and to the improvements an Owner has made within his own Unit shall be apportioned to the particular Unit involved; and (iv) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances or as determined by judicial negotiations, judicial decree, or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be disbursed as soon as practicable in the same manner provided in subsections (b)(1) through (5) of this paragraph.

The Association shall timely notify each first Mortgagee of any Condominium Unit of the commencement of the condemnation proceedings or eminent domain proceedings and shall notify said Mortgagees in the event of the taking of all or any part of the Common Elements, if the value of the Common Elements taken exceeds $10,000.00.

22. <u>Revocation or Amendment to Declaration</u>.

(a) Except as is otherwise provided in the event of damage, destruction, obsolescence, and condemnation, this Declaration shall not be revoked unless seventy-five (75%) of the Owners and sixty-seven percent (67%) of the first Mortgagees consent and agree to such revocation by instrument(s) duly recorded. This Declaration shall not be amended unless seventy-five (75%) of the Owners and

sixty-seven percent (67%) of the first Mortgagees consent and agree to such revocation by instrument(s) duly recorded. This Declaration shall not be amended unless seventy-five (75%) of the Owners and sixty-seven per cent (67%) of the first Mortgagees of Condominium Units consent and agree to such amendment by instrument(s) duly recorded. In determining whether the appropriate percentage of first Mortgagees approval is obtained, each first Mortgagee shall have one (1) vote for each first Mortgage held. The consent of any junior Mortgagee shall not be required under the provisions of this Section. In addition, the Declarant shall have the right to amend this Declaration to correct discrepancies between the Condominium Map and this Declaration, typographical errors, miscomputations, definitional errors or inconsistencies, omissions, and survey errors, provided, however, that the fractional undivided interest in the Common Elements appurtenant to each Unit, as expressed in this Declaration, shall have a permanent character and shall not be altered without the consent of all of the Condominium Unit Owners expressed in an amended Declaration duly recorded.

(b) Notwithstanding the foregoing, Declarant hereby reserves and is hereby granted the right and power, until such time as seventy-five (75%) of the Condominium Units within the Project are conveyed by Declarant or until January 1, 1991, whichever first occurs, to record one or more Special Amendments to this Declaration to (i) comply with the requirements of the Federal Housing Administration, the Veterans Administration, the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation; or (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages or deeds of trust covering Condominium Units. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to make or consent to a Special Amendment on behalf of each Owner and First Mortgagee. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Condominium Unit and the acceptance thereof shall be deemed to be a grant and acknowledgement of and the consent to the reservation of the power of Declarant to make, execute, and record Special Amendments.

(c) No Special Amendment made by Declarant shall affect or impair the lien of a first Mortgagee upon a Condominium Unit or any warranties made by an Owner or a first Mortgagee in order to induce any of the above agencies or entities to make, purchase, insure, or guarantee the first Mortgagee on such Owner's Condominium Unit.

(d) Except in the event of the submittal of additional Units to the Project as provided in Section 29(d) of this Declaration, the fractional undivided interest in the Common Elements appurtenant to each Unit, shall have a permanent character and shall not be altered without the consent of all of the Condominium Unit Owners expressed in an amended Declaration duly recorded.

29. <u>Additions, Alterations, and Improvements - General and Limited Common Elements</u>. During the period of the Declarant's control of the Association, there shall be no capital additions, alterations, or improvements of or to the Common Elements by the Association requiring an expenditure in excess of an amount equal to ten per cent (10%) of the Association's budget for any calendar or fiscal year in any one (1) calendar year without the prior written approval of Owners owning Units representing two-thirds (2/3) of the Units not owned or held by the Declarant.

Following termination of Declarant's control of the Association, there shall be no capital additions, alterations, or improvements of or to the Common Elements by the Association requiring an expenditure in excess of an amount equal to ten per cent (10%) of the Association's budget for any calendar or fiscal year in any one (1) calendar year without the prior written approval of a majority of the Owners, except in the event of an emergency. The limitations set forth above shall not apply to any expenditures made by the Association for maintenance and repair of the Common Elements or for repair in the event of damage, destruction, or condemnation.

24. Restrictive and Affirmative Covenants. Each Owner, upon purchase of a Condominium Unit, submits to the following restrictions and obligations:

(a) Residential Use: Each Unit may be used and occupied for residential purposes only.

(b) Notwithstanding the provisions of subparagraph (a), Declarant, its agent, employees, and contractors shall be permitted to maintain during the period of sale of the Condominium Units in the Project upon such portion of the Property as Declarant may choose, such facilities as in the sole opinion of the Declarant may be reasonably required, convenient, or incidental to the construction, sale or rental of Condominium Units, including, but not without limitation, a business office, storage area, signs, model Units, sales office, parking areas and lighting, and temporary parking facilities for all prospective tenants and purchasers of Declarant.

(c) No animals of any kind shall be raised, bred, or kept on the Property, except that dogs, cats or other household pets may be kept, subject to rules and regulations from time to time adopted and amended by the Association.

(d) No unsightly object or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Condominium Unit or any occupant thereof. The foregoing covenants shall not apply to the Association, its successors and assigns in furtherance of its powers and purposes as hereinafter set forth.

(e) Restrictions and easements of record encumbering the Property are hereby incorporated by reference.

(f) No nuisances shall be allowed in the Project, nor any use or practice which is the source of annoyance to occupants or which interferes with the peaceful enjoyment or possession and proper use of the Property by its occupants. All parts of the Property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor any fire hazard to exist. No Owner shall permit any use of his Unit or make use of the Common Elements which will increase the rate of insurance upon the Project.

(g) No immoral, improper, offensive, or unlawful use shall be permitted or made of a Unit or any part thereof. All valid laws, ordinances, and regulations of all governmental bodies having jurisdiction shall be observed.

(h) Except as provided in subsection 24(b) above, no building of a temporary character, mobile home, house trailer, tent, shack, or outbuilding shall be placed or used on the Property, either temporarily or permanently.

(i) No signs, billboards, posterboards, or advertising structure of any kind shall be erected or maintained for any purpose whatsoever

except such things as have been approved by the Board of Managers pursuant to its regulations. Any signs which are permitted under these restrictions shall be erected or maintained on the Property only with the prior written approval of the Board of Managers, which approval shall be given only if such signs shall be of attractive design and shall be as small a size as practical and shall be placed as directed by the Board of Managers. Notwithstanding anything herein to the contrary, Declarant or its agent shall have the right to erect signs during the period of actual construction without prior written approval of the Board of Managers.

(j) No lights shall be emitted from any Unit which are unreasonably bright or cause unreasonable glare; no sound shall be emitted from any Unit which is unreasonably loud or annoying; and no odor shall be emitted from any Unit which is noxious or offensive to others.

(k) Fences. No fences, walls, or other barriers shall be permitted except with the written consent of the Board of Managers.

(l) No commercial type vehicles, campers, trailers, boats, recreational vehicles and no trucks over 3/4 ton shall be stored or parked on the common elements nor shall they be parked on any common driveway except while engaged in transport to or from a Building, except as may be approved by the Association.

(m) Abandoned or inoperable automobiles or vehicles of any kind, except as hereinafter provided, shall not be restored or parked on any portion of the Project. An "abandoned or inoperable vehicle" shall be defined as any vehicle which has not been driven under its own propulsion for a period of three (3) weeks or longer; provided however, this shall not include vehicles parked by Owners while on vacation. A written notice describing the "abandoned or inoperable vehicle" and requesting removal thereof may be personally served upon the Owner or posted on the unused vehicle and if such vehicle has not been removed within seventy-two (72) hours thereafter, the Association shall have the right to remove the same without liability to it, and the expense thereof shall be charged against the Owner. If such Owner shall be a member of the Association, the cost thereof shall be added to his next assessment due.

(n) Without the prior written approval of the Association through its Board of Managers, no new exterior television, radio or other communications antennas or aerials of any type shall be placed, allowed or maintained on any portion of the common elements or the Project.

(o) Other than as stated in Paragraph 17 there are no restrictions on or requirements concerning the sale or lease of a Unit, nor shall there be imposed any rights of first refusal on sale or any other restraints on the free alienability of a Condominium Unit.

(p) In addition to the above restrictions and obligations each Owner acknowledges and agrees to abide by the terms and conditions and reservations as contained in that Agreement Relating to the Annexation and Zoning of Charles Anderson and John Cowger Tracts dated March 21, 1982 and recorded April 22, 1982 at Reception No. 238829 of the Summit County, Colorado records, and the Articles of Incorporation and Bylaws of the Cabin Creek Homeowners' Association.

(q) Additional and supplemental rules and regulations may be adopted by the Board of Managers concerning and governing the use of the general and limited common elements; provided, however, that such rules and regulations shall be furnished to Owners prior to the time that they become effective and that such rules and regulations shall be uniform and non-discriminatory except to the extent the Board has discretionary rights specifically given to it in this Declaration.

25. Exculpatory Clause. Any Owners who acquire title to a Condominium Unit from the Declarant hereby acknowledge and agree that the Declarant makes no warranty as to the fitness of said Condominium Unit or the electrical, plumbing, heating, or air conditioning systems situate therein, nor any warranties whatsoever concerning the structural integrity, footings, foundations, or roofs of the building or the condition and operations of any other common facilities that may be provided, and that the only warranties that may be applicable are such as may be set forth in the deed conveying title to the Owner, and any other manufacturer's warranties that may be applicable to a purchaser of a Condominium Unit.

26. Registration by Owner of Mailing Address. Each Owner shall register his mailing address with the Association, and except for monthly statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be either hand delivered or sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered address. All notices, demands or other notices intended to be served upon the Board of Managers of the Association or the Association shall be sent by certified mail, postage prepaid, to the Association, 496 South Dayton, Denver, Colorado 80231, until such address is changed by a notice to all Owners.

27. VA/FHA Approval. Until such time as the Declarant has sold, leased, or rented or allowed or caused the occupancy of seventy-five per cent (75%) of the Condominium Units in the entire Project, or January 1, 1991 whichever event first occurs, the prior written approval of the Administrator of the Veterans Administration of the Federal Housing Administration or the United States Department of Housing and Urban Development shall be required for the following, if any such agencies or entities have insured, guaranteed, or own any mortgages encumbering Condominium Units located at the Project:

(a) Amendment of this Declaration;

(b) Amendment of the Articles of Incorporation or the Bylaws of the Association;

(c) Annexation of additional properties to this Declaration;

(d) Dedication or mortgaging of all or part of the Common Elements by the Declarant; or

(e) Merger, consolidation, or dissolution of the Association.

28. Subdivision and Recombination of Units. There is hereby reserved to the Declarant the right to combine an unsold Unit with one or more adjoining unsold Units or subdivide an unsold Unit upon the execution and recordation of the statement evidencing the combination or subdivision and amendment to the Map described below. Subject to the approval of the Board of Managers, any other Owner shall have the right to combine a Unit with one or more adjoining Units and to subdivide a Unit upon the terms and conditions set forth in this Paragraph 28.

No Owner, other than the Declarant, shall be entitled to subdivide any Unit so as to convey to a prospective Owner an interest in less than an entire Unit; provided, however, that an Owner of a Unit consisting of two or more Units combined pursuant to this paragraph may partition and subdivide such Unit into Units conforming to the dimensions depicted on the original Map.

A combination or subdivision shall become effective only when the Owner of the Units which are to be combined or subdivided executes and records a written statement evidencing the combination or subdivision and setting forth the undivided interest in the General Common Elements appurtenant to the affected Units and records an amendment to the Map, at his own cost and expense, showing the combination or subdivision. Such amendment to the Map shall be approved in writing by any mortgagees of the affected Units. The interest in the General Common Elements appurtenant to the affected Units shall be (a) in the case of combined Units, the sum of the divided interests in the General Common Elements appurtenant to each of the Units so combined, and (b) in the case of a Unit resulting from a subdivision, a portion of the interest in the General Common Elements appurtenant to the subdivided Unit based upon the ratio of the interior area of such resulting Unit to the sum of the interior areas of all resulting Units.

In the event of a combination of Units, any part of the General Common Elements within the new perimeter boundaries of the combined Units shall cease to be General Common Elements if such part of the General Common Elements would not have constituted General Common Elements had the combined Units been originally designated on the Map as a single Unit; provided, however, that the undivided interest in the General Common Elements appurtenant to the combined Unit set forth above shall not be increased or decreased thereby.

29. Reservation to Enlarge Condominium Project.

(a) Declarant, for itself, its successors and assigns, expressly reserves until January 1, 1991, the right to enlarge this Condominium Project from time to time by submitting additional Units to this Project converting existing Common Elements into residential Units and Limited Common Elements. Such additions shall be expressed in one or more Supplemental Maps and Supplemental Declarations recorded in the Summit County Recorder's Office. The reference to the Map and Declaration in any instrument shall be deemed to include any such Supplemental Maps and Supplemental Declarations without specific reference thereto.

(b) Such Supplemental Declaration shall describe the Common Elements to be converted to Units and Limited Common Elements and shall provide for a division of the same and improvements thereon into Condominium Units. Each Unit shall be separately designated, and the undivided interest in and to the common

elements appurtenant to each such Unit shall be set forth. The Supplemental Map shall show at least the following:

> The legal description of the Common Elements to be converted and a survey thereof; the location of the Units, both horizontally and vertically; the location of the improvements with respect to the exterior boundaries of the Property; the floor and elevation plans; the thickness of the common walls between or separating the Units; the location of any structural components or supporting elements located within a Unit; the Unit designation; the building designation; and the certificate of a registered professional engineer, licensed architect, or registered land surveyor certifying that the Map was prepared after substantial completion of the improvements shown thereon and is in substantial compliance with the boundaries, measurements, and improvements shown thereon.

(c) Except as may be otherwise provided by the provisions of any such Supplemental Declaration, all the provisions contained in this Declaration shall be applicable to such additional Units.

(d) As additional Units are submitted to this Project, the undivided interest in and to the common elements appurtenant to all Units shall be reallocated to provide that each Unit shall have an equal interest in the common elements. The acceptance by any Owner of any interest in any Unit shall constitute an appointment of the Declarant as attorney-in-fact to effect the above reallocation.

(e) As additional Condominium Units are submitted to this Project, the Common Expenses of each Condominium Unit shall be determined by multiplying the total amount of funds needed by a fraction, the numerator of which shall be one, and the denominator shall be the total number of Condominium Units submitted to this Project. Further, each Condominium Unit, regardless of the number of Owners, shall be entitled to one (1) vote for all purposes hereunder, which shall not change by enlargement of the Project.

(f) It is now contemplated that five (5) additional Units to be converted from the existing Common Elements will ultimately be submitted to this Project, but the Declarant shall have no affirmative obligation to do so. The rights of the Declarant, as contained in this Declaration, shall apply to all additional Units and Limited Common Elements submitted to this Project.

30. <u>Plan of Timeshare Ownership.</u> Declarant, for itself, its successors and assigns, expressly reserves the right until seven (7) years from the date of the recording of the Declaration or at such time as 75% of the total number of Condominium Units which may be constructed on the submitted land are conveyed to Unit purchasers, whichever occurs first, to submit all or some of the Condominium Units in the Project to a plan of Time Share Ownership as defined according to Colorado Revised Statutes 1973, 38-37-110, as amended from time to time, set forth

in a Supplement or Supplements to the Declaration to be recorded by Declarant. The provisions of such Supplement shall relate only to those Condominium Units submitted to the Plan of Time Share Ownership and shall govern the ownership of Time Share Owners so long as a Condominium Unit remains a Time Share Unit. The right to submit a Condominium Unit to a plan of Time Share Ownership shall extend only to the Declarant, his successors or assigns and shall specifically not be available to purchasers of Condominium Units in the Project, their successors and assigns except with the prior written consent of Declarant.

31. General.

(a) If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provisions, paragraph, sentence, clause, phrase, or word in any other circumstance.

(b) The provisions of this Declaration shall be in addition and supplemental to all provisions of law.

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

32. Rights of Declarant. Any rights reserved by Declarant in the Declaration, except rights that are a result of ownership by Declarant of one or more Units, will terminate on January 1, 1991 without need of notice or further action of the Board of Managers.

IN WITNESS WHEREOF, Declarant has duly executed this Declaration this 28th day of December, 1984.

DECLARANT:

John L. Cowger

By: John L. Cowger

STATE OF COLORADO)
) ss.
County of Summit)

The foregoing instrument was acknowledged before me this 28th day of December, 1984 by John L. Cowger.

My Commission expires 2-8-86.

Betty M. Shoe
Notary Public
766 Hamilton St.
Address

EXHIBIT B

TO THE CONDOMINIUM DECLARATION FOR CABIN CREEK CONDOMINIUMS

Fractional Interest in the Common Elements of the Owner of Each Unit

Building	Unit No.	Fractional Interest
A	1	1/4
A	2	1/4
A	3	1/4
A	4	1/4