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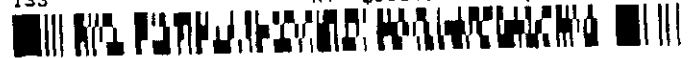
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ELEVATION
PLANNED COMMUNITY DECLARATION



ELEVATION
PLANNED COMMUNITY DECLARATION

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ELEVATION
PLANNED COMMUNITY DECLARATION

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, **CB CC DEVELOPMENT, LLC**, a Florida limited liability company (the "Declarant"), is the owner of that certain real property situated in the County of Gunnison, State of Colorado, being more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Elevation Property"); and

WHEREAS, there presently exists on the Elevation Property a building and other improvements, which Declarant desires to submit to commercial planned community ownership under this Declaration that is exempt from the provisions of the Colorado Common Interest Ownership Act ("Common Interest Act") pursuant to the provisions of Section 38-33.3-116(2) of the Common Interest Act; and

WHEREAS, Declarant desires to subject the Elevation Property and the improvements located thereon to certain covenants, conditions, restrictions, easements, reservations, rights-of-way and other charges set forth herein for the purpose of protecting the value and desirability of the Elevation Property and for the purpose of furthering a plan for the improvement, sale and ownership of the Elevation Property for resort and other commercial uses, to the end that a harmonious and attractive development of the Elevation Property may be accomplished and the health, comfort, safety, convenience and general welfare of Declarant, its successors and assigns in the Elevation Property, or any parts thereof, may be promoted and safeguarded.

NOW, THEREFORE, Declarant submits the Elevation Property together with all improvements, appurtenances and facilities thereto and now or hereafter located thereon, to planned community ownership that is exempt from the provisions of the Common Interest Act, as the same may be amended from time to time, and hereby imposes upon all of the Elevation Property the following terms, provisions, covenants, conditions, restrictions, easements, reservations, uses, limitations and obligations, which shall be deemed to run with the Elevation Property and shall be a burden and a benefit to Declarant, its successors and assigns, and any person acquiring or owning an interest in the Elevation Property, their grantees, successors, heirs, personal representatives, executors, administrators, devisees, or assigns.

ARTICLE I

DEFINITIONS

1.1 Articles. "Articles" shall mean and refer to the Articles of Incorporation of the Association, as amended from time to time.

1.2 Association. "Association" and "Elevation Association" shall mean and refer to Elevation Owners Association, a Colorado nonprofit corporation, its successors and assigns. The



Association shall act by and through its Board of Directors and officers unless the Articles of Incorporation or By-Laws of the Association or this Declaration specifically require otherwise.

1.3 Board of Directors. "Board of Directors" or "Board" shall mean and refer to the duly appointed or elected, as the case may be, directors of the Association.

1.4 By-Laws. "By-Laws" shall mean and refer to the By-Laws of the Association adopted by the Board of Directors of the Association, as amended from time to time.

1.5 Commercial Member. "Commercial Member" shall mean and refer to a Member of the Association who is the Owner of a Commercial Unit.

1.6 Commercial Unit. "Commercial Unit" shall mean and refer to a Unit, together with all fixtures and improvements therein contained, designated as a Commercial Unit on the Elevation Planned Community Map and on Exhibit B to this Declaration.

1.7 Common Elements. "Common Elements" shall mean all of the Elevation Building and the Elevation Property, as shown on the Elevation Planned Community Map, except the Units, and shall include without limitation the following:

(a) Fee title interest in the land comprising the Elevation Property; and

(b) The Elevation Building located on the Elevation Property as shown on the Elevation Planned Community Map (including, but not by way of limitation, the columns, girders, beams, supports, perimeter and supporting walls, roofs, flues, hallways, elevators, stairs, stairways, mechanical rooms, maintenance/storage rooms and the mechanical installations of the Elevation Building consisting of the equipment and materials making up any services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating, which exist for common uses, including the pipes, vents, ducts, flues, chutes, conduits, wires, and other similar utility installations used in connection therewith, whether or not shown on the Elevation Planned Community Map), except for the Units; and

(c) The tanks, pumps, motors, fans, compressors, ducts and, in general, all apparatus, installations and equipment of the Elevation Building existing for the common use of some or all of the Owners; and

(d) In general, all other parts of the Elevation Building existing for the common uses of some or all of the Owners and all other parts of the Elevation Planned Community Project necessary or convenient to its existence, maintenance or safety or normally in common use.

1.8 Common Facilities. "Common Facilities" shall mean and refer to the swimming pool, swimming pool deck and locker rooms, and lobbies that are Limited Common Elements appurtenant to Commercial Units C-101 and C-201, and the spa/fitness center that comprises Commercial Unit C-102.



1.9 Community Association. "Community Association" shall mean and refer to the Mt. Crested Butte Town Center Community Association, a Colorado nonprofit corporation, created pursuant to and in connection with the Community Declaration.

1.10 Community Declaration. "Community Declaration" shall mean and refer to Community Declaration for Mt. Crested Butte Town Center dated February 23, 2007, and recorded on February 28, 2007, at Reception No. 573262 in the Clerk and Recorder's Office for the County of Gunnison, Colorado.

1.11 Declarant. Except as provided below, "Declarant" shall mean and refer to CB CC Development, LLC, a Florida limited liability company, its successors and assigns, if such successors and assigns are designated by the then-Declarant to serve as a Declarant for any specified purposes or for all purposes under this Declaration, in a written instrument duly executed by the then-Declarant and the designated successor or assignee and recorded in the County of Gunnison, Colorado.

1.12 Declaration. "Declaration" shall mean and refer to this Elevation Planned Community Declaration, as it may be amended or supplemented from time to time.

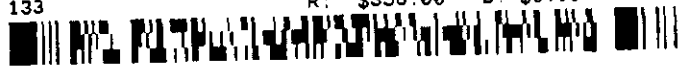
1.13 Elevation Building. "Elevation Building" or "Building" shall mean and refer to the existing building (including all fixtures and improvements therein contained) and any additions thereto that contains the Elevation Planned Community Project located on the Elevation Property, as described in the Elevation Planned Community Map recorded simultaneously herewith and within which one or more Units or Common Elements are located.

1.14 Elevation Planned Community Map. "Elevation Planned Community Map" shall mean and refer to the Planned Community map of the Elevation Building that is subject to this Declaration and which is designated as the Elevation Planned Community Map recorded or to be recorded in the records of the office of the Clerk and Recorder of the County of Gunnison, Colorado. More than one Elevation Planned Community Map or supplement thereto may be recorded, and, if so, then the term "Elevation Planned Community Map" shall collectively mean and refer to all of such Planned Community maps and supplements thereto.

1.15 Elevation Planned Community Project. "Elevation Planned Community Project" or "Project" shall mean and refer to the Elevation Property and the improvements located thereon which are subjected to planned community ownership pursuant to this Declaration and the Elevation Planned Community Map and includes the Resort Units, Commercial Units, and Common Elements.

1.16 Elevation Property. "Elevation Property" shall mean and refer to the land comprising the Elevation Property as shown on the Elevation Planned Community Map and legally described in Exhibit A attached hereto.

1.17 First Mortgage. "First Mortgage" shall mean a Security Interest on a Resort Unit or a Commercial Unit which has priority over all other Security Interests on the Resort Unit or Commercial Unit.



1.18 First Mortgagee. "First Mortgagee" shall mean and refer to any person named as a mortgagee or beneficiary under any First Mortgage, or any successor to the interest of any such person under such First Mortgage.

1.19 General Common Elements. "General Common Elements" shall mean and refer to all of the Common Elements except the Limited Common Elements. Any fire sprinkler lines running through the Units shall be General Common Elements and not Limited Common Elements. The General Common Elements may not be conveyed or encumbered except as permitted hereunder; provided, however, that the granting of permits, licenses and easements for public utilities or other purposes consistent with the intended use of the Common Elements or reasonably necessary or useful for the proper maintenance or operation of the Project will not be deemed to be a conveyance.

1.20 Limited Common Elements. "Limited Common Elements" shall mean and refer to those parts of the Common Elements which are either limited to and reserved for the exclusive use of the Owner or Owners of a particular Resort Unit or Commercial Unit or are limited to and reserved for the common use of the Owners of more than one, but fewer than all, of the Resort Units and Commercial Units. Without limiting the foregoing, the Limited Common Elements shall include the utility, heating, and domestic hot water equipment associated with or providing service to a Resort Unit or a Commercial Unit, which Limited Common Elements shall be used in connection with the applicable Unit to the exclusion of the use thereof by the other Owners, except by invitation. The Owner of the Resort Unit or Commercial Unit to which a Limited Common Element is appurtenant shall have the right to regulate and restrict the use of such Limited Common Element as set forth in this Declaration.

1.21 Member. "Member" shall mean and refer to each Owner of a Resort Unit or a Commercial Unit; membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Resort Unit or Commercial Unit.

1.22 Owner. "Owner" shall mean and refer to any record owner (including a Declarant), whether one or more persons or entities, of a fee simple title interest to any Resort Unit or Commercial Unit; but excluding, however, any such record owner having such an interest merely as security for the performance of an obligation (unless such person has acquired fee simple title interest therein pursuant to foreclosure or any proceedings in lieu thereof).

1.23 Percentage Interest. "Percentage Interest" shall mean and refer to the percentage for each Unit set forth in Exhibit B attached hereto and incorporated herein by this reference.

1.24 Period of Declarant's Control. "Period of Declarant's Control" shall mean the time period in which the Declarant is authorized to appoint the Board of Directors and officers of the Association, as provided in Section 5.2 below.

1.25 Resort Member. "Resort Member" shall mean and refer to a Member of the Association who is the Owner of a Resort Unit.



1.26 Resort Unit. "Resort Unit" shall mean and refer to a Unit, together with all fixtures and improvements therein contained, designated as a Resort Unit on the Elevation Planned Community Map and on Exhibit B to this Declaration.

1.27 Restaurant. "Restaurant" shall mean and refer to the restaurant and associated kitchen, storage and serving areas that comprise Commercial Unit C-203.

1.28 Security Interest. "Security Interest" shall mean an interest in real estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association and any other consensual lien or title retention contract intended as security for an obligation.

1.29 Storage Locker. "Storage Locker" shall mean and refer to a storage space designated on the Elevation Planned Community Map that shall be allocated to a Resort Unit as a Limited Common Element.

1.30 Theater Building. "Theater Building" shall mean that portion of the Elevation Planned Community Project which includes the Commercial Units and Common Elements designated as Commercial Units C-ML01 through C-ML05 on the Elevation Planned Community Map. The Declarant has reserved the right to remodel, demolish, reconstruct, rebuild and redesignate the Units and Common Elements within the Theater Building in Section 18.5 of this Declaration.

1.31 Town. "Town" shall mean the Town of Mt. Crested Butte, Colorado, acting through its duly authorized employee or body.

1.32 Unit. "Unit" shall mean and refer to the air space contained within the enclosed rooms occupying part of a floor or floors in the Elevation Building, and bounded by the unfinished interior surfaces of the perimeter walls (or the demising walls, if two or more Units adjoin each other), unfinished interior surfaces of floors (or the lowermost floor in respect of the Units containing more than one level), unfinished interior surfaces of ceilings (or the uppermost ceilings, in respect of the Units containing more than one level), and the unfinished interior surfaces of windows and window frames, doors and door frames of the Elevation Building, and which is separately identified on the Elevation Planned Community Map. The term "Unit" includes a Resort Unit and a Commercial Unit. The term "Unit" does not include any utility facility running through the Unit that serves more than one Unit or any other Common Element or part thereof located within the Unit. In the case of walls, floors and ceilings that are designated as boundaries of a Unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallboard paint and finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the Unit, and all other portions of the walls, floors or ceilings are a part of the Common Elements.



ARTICLE II

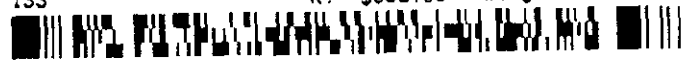
DIVISION OF ELEVATION BUILDING INTO PLANNED COMMUNITY OWNERSHIP

2.1 Division Into Resort Units and Commercial Units. The Elevation Building is hereby divided into two hundred sixty-two (262) separate Resort Units and nineteen (19) separate Commercial Units. The Elevation Planned Community Project may be divided into a maximum of three hundred sixty-two (362) separate Resort Units and a maximum of fifty (50) separate Commercial Units.

2.2 Inseparability. Each Unit, and the appurtenances, rights and burdens connected therewith, shall be inseparable and may be transferred, conveyed, leased, devised, encumbered or otherwise disposed of only as a Unit. Every conveyance, transfer, devise, lease, encumbrance or other disposition of a Unit shall be deemed to be a conveyance, transfer, devise, lease, encumbrance or other disposition, as the case may be, of the entire Unit, together with all appurtenant rights, interests, duties and obligations created by law or by this Declaration.

2.3 Non-Partitionability. The Common Elements shall be owned by the Association and shall remain undivided, except as expressly permitted herein. By the acceptance of a deed or other instrument of conveyance or assignment of the Unit, each Owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Elements, except as may be expressly permitted herein. Furthermore, each Owner agrees that this Section 2.3 may be pleaded as a bar to the maintenance of such an action. Any violation of this Section shall entitle the Association to collect, jointly and severally, from the parties violating the same, the actual attorney's fees, costs, expenses, and all damages which the Association incurs in connection therewith through appeal and final judgment.

2.4 Combination or Division of Units. Except as expressly permitted herein, Units may not be combined or divided into two or more Units without the consent of the Board of Directors of the Association and the Town. Notwithstanding the foregoing, the Declarant, and any Owner of a Commercial Unit with the consent of the Declarant, is hereby authorized to combine any Units owned by the Declarant or the Owner of a Commercial Unit into a single Unit or divide any Units owned by the Declarant or the Owner of a Commercial Unit into two or more Units without the necessity of obtaining the consent of any other Owners, Members, mortgagees or the Association. The Units affected by the combination or division, and any portion thereof, may be redesignated as Commercial Units or Resort Units in the sole discretion of the Owner(s) of the Units being combined or divided. All costs incurred in connection with the combination or division of Units shall be borne by the Owner or Owners of the affected Units. In connection with any such combination or division, the Owners of the Units being so combined or divided shall have the right to redesignate, as part of a Unit or as a Limited Common Element, any portion of the Common Elements or any walls, floors or other separations between the affected Units, which may be necessary or appropriate to accomplish such combination or division; provided, however, that the exercise of the rights granted herein shall be subject to the prior written consent of any First Mortgagee having an interest in any such combined or divided Units. Assessments allocated to combined Units shall equal the total Percentage Interest for all of the Units that are combined and Assessments allocated to divided Units shall be equal to the Percentage Interest for the Unit being divided, multiplied by the percentage of the total square footage of such Unit allocated to each resulting Unit. An amendment to the Elevation Planned Community



Declaration and Elevation Planned Community Map implementing a combination or division under this Section shall be executed and filed by the Declarant and by the Owner of the affected Commercial Units. Declarant's rights set forth above shall terminate on the date of conveyance of the last Unit by a Declarant to the first purchaser thereof (other than a Declarant). After termination of the Declarant's rights, the Owners of Commercial Units shall have the right to combine or divide Commercial Units without the consent of the Declarant, the Association, or any other Owner or Member.

ARTICLE III

ELEVATION PLANNED COMMUNITY MAP

3.1 Recording. The Elevation Planned Community Map (including any supplements recorded pursuant to Declarant's development rights) shall be recorded in the office of the Clerk and Recorder of the County of Gunnison, Colorado, prior to conveyance of the first Resort Unit shown on such Elevation Planned Community Map.

3.2 Content. Each Elevation Planned Community Map (including any supplements recorded pursuant to Declarant's development rights) shall depict and show all the following items: the legal description of the Elevation Property and a survey thereof; the location of the Elevation Building in reference to the exterior boundaries of the land; the floor and elevation plans; the location of the Units within the Elevation Building; the location of the Common Elements, both horizontally and vertically; and the Unit designations. The Elevation Planned Community Map and any amendments and supplements thereto shall contain the certificate of a registered professional engineer, licensed architect or registered land surveyor certifying that the Elevation Planned Community Map substantially depicts the location and the horizontal and vertical measurements of the items required herein. In interpreting the Elevation Planned Community Map, the existing physical boundaries of each Unit, as constructed, shall be conclusively presumed to be its boundaries.

3.3 Amendments. Declarant hereby reserves unto itself the right, from time to time, without obtaining the consent or approval of any Owner or First Mortgagee or the Association, to amend the Elevation Planned Community Map in order to conform such Elevation Planned Community Map to the actual location of any improvement(s) constructed, installed or erected on the Elevation Property, including any reconstruction of the Theater Building, to establish and designate any General Common Elements as Limited Common Elements or Units, to establish and designate any Limited Common Elements as General Common Elements or Units, to show any new Units (including combined and subdivided Units) and Common Elements or to show any withdrawal of Units or Common Elements. The rights accorded to Declarant in this Section 3.3 shall expire upon conveyance by Declarant (including any Successor Declarant) of all Units that may be created to Owners (other than a Successor Declarant); provided that Declarant may terminate its rights earlier. The Elevation Planned Community Map may also be amended, from time to time, in accordance with the provisions of this Declaration relating to amendments to the Elevation Planned Community Map or the Declaration. Any amendment to the Elevation Planned Community Map also shall be approved by the Town in accordance with the provisions of the Town's Municipal Code.

ARTICLE IV

OWNERS' EASEMENTS ACROSS COMMON ELEMENTS

4.1 Rights of Ingress and Egress. Every Owner, tenant and their respective family members, guests, invitees and licensees shall have a right and easement of enjoyment in and to the General Common Elements and those Limited Common Elements appurtenant to such Owner's Unit, plus a right and easement of support and of ingress and egress over, across and upon the General Common Elements, for the purpose of entering and exiting such Owner's Unit, the parking areas, any recreational facilities and public ways, for both pedestrian and vehicular travel as appropriate, which rights and easements shall be appurtenant to and pass with the transfer of title to the Owner's Unit; provided, however, that such rights and easements shall be subject to the following:

(a) The terms, provisions, covenants, conditions, restrictions, easements, reservations, uses, limitations, and obligations contained in this Declaration and the Elevation Planned Community Map, including the Declarant's right to convert General and Limited Common Elements to Units, General Common Elements to Limited Common Elements, Limited Common Elements to General Common Elements, and Units to Common Elements; and

(b) The right of the Association to suspend the voting rights and any and all rights of any Owner to the use of any recreational or other facilities, for any period during which any Association Assessment against such Owner or against such Owner's Unit remains unpaid and, for any period of time which the Association may deem to be appropriate, for such Owner's infraction, or the infraction by such Owner's tenant, any member of such Owner's or tenant's family or such Owner's or tenant's guests, licensees, or invitees, of this Declaration, the Articles, By-Laws or any written rule or regulation of the Association; and

(c) The right of the Association to adopt, from time to time, rules and regulations concerning the Units, Common Elements, and/or any other property owned by the Association, and any facilities located thereon, as the Association may determine is necessary or prudent; and

(d) The right of the Association and the Declarant to grant permits, licenses and easements over the Common Elements for utilities and other purposes reasonably necessary or useful for the proper maintenance or operation of the Elevation Planned Community Project.

4.2 Limited Common Elements. Subject to the terms and provisions of this Declaration, every Owner shall have the exclusive right to use and enjoy the Limited Common Elements appurtenant to his Unit. The Owner of a Commercial Unit shall have the right to restrict those persons who may enter upon the Limited Common Elements appurtenant to such Commercial Unit, as long as all Owners have the right to use the Limited Common Elements that constitute the lobby area of the Elevation Building to access their Units and have a right to use such Limited Common Elements in the same manner as members of the general public and guests who are occupying a Resort Unit. The Limited Common Elements which contain the swimming pool and swimming pool deck shall be available for use by all Owners and their guests, provided that the Owner of the Commercial Unit to which such Limited Common Element is appurtenant may charge a fee for such use to persons other than the Owners.



4.3 Common Facilities. The Common Facilities shall be made available at all times the Building is open and available for occupancy for use by the Owners, their tenants, the family members of the Owner or tenants, and the guests and invitees of the Owners and their tenants, upon compliance with such regulations as may be set by the Association. Notwithstanding the foregoing, the Commercial Unit Owner may charge fees for use of these facilities by persons who are not members of the Association. The Declarant and the Owner(s) of the Commercial Units reserves the right to modify or change such Common Facilities from time to time, provided that such Common Facilities shall be maintained and open for use to the Owners and their guests, family members, tenants and invitees at all times that the Building is open and available for occupancy. The Owner(s) of the Common Facilities and the Restaurant shall keep such facilities open and in operation in accordance with the standards found at similar hotel facilities in the Town at all times as the Building is open and available for occupancy unless the Board of Directors of the Association approves otherwise. If such Owner(s) fail to keep any such Common Facilities or the Restaurant open and in operation as provided above ("Operational Default"), the Association may provide written notice to the Owner of the Common Facilities or the Restaurant of such Operational Default. If such Owner(s) fail to cure the Operational Default within thirty (30) days after the date of such notice without good cause, the Association shall have the right to take possession of the Commercial Unit or Limited Common Element which is subject to the Operational Default and cure the Operational Default, either directly or through a third party. The Association shall have the right to continue maintaining such Common Facilities or the Restaurant until such time as the Owner(s) of the facilities that were subject to the Operational Default reaches agreement with the Association to resume such operations in a manner reasonably acceptable to the Board of Directors of the Association.

4.4 Parking Areas. The parking areas within the Elevation Planned Community Project are part of Commercial Units and are owned by the Owner(s) of such Commercial Units. For purposes of this Section 4.4, the parking areas within such Commercial Units are referred to as the "parking area" or "parking spaces." The parking spaces will be available for use by the Owners of Resort Units, their guests, licensees, lessees and invitees, as well as the Owners of Commercial Units and their guests, licensees, lessees and invitees. There are currently 262 Resort Units and 19 Commercial Units and 145 parking spaces within the Project. Parking will be regulated by the Declarant and the Owner or Manager of the parking area to accommodate the parking needs of the Project, including those occasions when there are not sufficient parking spaces to accommodate the parking needs of the occupants of all of the Resort Units and users of the Commercial Units at the same time. The use of parking spaces within the parking area shall be subject to the following parking management requirements and additional requirements as may be established by from time to time by the Declarant with the approval of the Town planning director:

(a) No vehicles may be parked on the Project except in the appropriate areas that are designated for vehicular parking.

(b) Unless the Declarant specifically authorizes storage or temporary parking by an Owner or an Owner's guests, family members or invitees, there shall be no storage or parking of snowmobiles, trailers, recreational vehicles, disabled vehicles, motorcycles, bicycles, motorbikes, or vehicles deemed to be too large for the parking space upon any part of the parking area within the Elevation Planned Community Project.



(c) In any event, no Owner may store a vehicle anywhere within the Elevation Planned Community Project while not physically occupying a Resort Unit or Commercial Unit.

(d) Generally, parking spaces are not assigned to any specific Resort Unit or Commercial Unit, but are allocated as provided in this Section 4.4.

(e) Up to twenty-five (25) parking spaces will be made available to Resort Unit Owners who wish to reserve a parking space for the period in which they are personally occupying their Resort Unit. Reservation of a parking space must be made at least seven (7) days prior to the date the Resort Unit Owner uses the Resort Unit by providing a request to the Association Manager specifying the date(s) the Resort Unit Owner wishes to have a parking space reserved. The Manager will determine if a space remains available for reservation by the Resort Unit Owner and inform the Resort Unit Owner of the availability of a parking space prior to the Resort Unit Owner's arrival date. Those spaces not reserved for personal use by Resort Unit Owners or not otherwise allocated to specific users in this Section 4.4 will be available to hotel guests who rent a Resort Unit on a first come, first served basis. Resort Unit Owners will pay parking fees on the same basis as non-Owner occupants of Resort Units.

(f) Nine (9) parking spaces have been reserved for use by the Crested Butte Academy as long as it is leasing one or more commercial units. The Declarant reserves the right to reassign such parking spaces after termination of the Crested Butte Academy lease, including to other lessees of commercial units. Such parking spaces will be identified by appropriate signage within the parking area.

(g) Six (6) parking spaces will be made available for parking by short term users of Commercial Units that are available for use by the general public, such as the restaurant and spa, subject to the Declarant's right to change the number of spaces to be made available for such users. Such parking spaces will be identified by appropriate signage within the parking area.

(h) Parking fees, if and when established, shall be paid as a condition of all uses of the parking areas within the Project that are made subject to such fees.

(i) If there are not enough parking spaces to meet the demand for parking spaces, the Owner or Manager of the parking area will either implement a valet parking program to park excess vehicles elsewhere or provide directions to additional parking spaces available elsewhere.

(j) The Owner or Manager of the parking area may retain keys of vehicles parked within the parking area in order to ensure maximum, efficient usage of the parking area by relocating vehicles within the parking area as needed.

(k) If a vehicle is parked in a fire lane, is blocking another vehicle, is obstructing access to the flow of traffic or other parking spaces, the Owner or Manager of the parking area may remove such vehicle and have it towed to a remote location.



(l) Any vehicle parked within the parking area in violation of this Section 4.4 may be removed by the Owner or Manager of the parking area and towed to a remote location.

If any vehicle is towed from the parking area pursuant to the provisions of this Section 4.4, the Declarant, the Owner and Manager of the parking area and the Association shall not have any liability for any claim of damage to such vehicle or the owner or user of such vehicle. The Association may adopt fines for violations of this Section 4.4 in addition to or in lieu of towing of vehicles that violate this Section 4.4.

To the extent not in conflict with the ordinances of the Town of Mt. Crested Butte which are applicable to the Project and the provisions of this Section 4.4, Owner(s) of the parking areas and parking spaces are hereby authorized to charge fees to persons other than Owners for the use of such parking spaces, provided that such fees do not exceed the charges for similar parking facilities within the Town. The Owner(s) of the parking areas and parking spaces also are authorized to install devices and signage to restrict and control access to the parking areas and otherwise to regulate the use of the parking areas to ensure compliance with the requirements of the Town and this Section 4.4, as long as such parking areas are available for use by occupants of the Building in accordance with the provisions of this Section 4.4. The parking areas within the Project may not be used for parking by persons (including employees of an Owner or of the Owner's tenant) who are not Owners, their guests, family members, lessees, licensees, or invitees without the prior consent of the Declarant, except for members of the public who are using facilities in the Building, such as the Restaurant, swimming pool or spa/fitness center. The Declarant may approve the use of portions of the parking areas by employees who work in the Building subject to such restrictions and limitations as the Declarant may elect.

The parking areas and parking spaces located in Commercial Units C-P101, C-P102, C-P205, and C-ML09 may be modified, relocated, reduced in size, or eliminated by the Owner(s) of such Commercial Unit(s) upon prior approval of the Town, provided that any parking spaces that are lost as a result of such modification, relocation, reduction or elimination are replaced in another location within the Project in accordance with a plan approved by the Town. All other parking spaces and parking areas within any other Commercial Units may not be eliminated or reduced in size or number.

The Declarant may modify, change and expand the parking management plan set forth above with the prior approval of the Town planning director by the execution and recording of an amendment to this Section 4.4 setting forth such changes to this Section 4.4. Notice of any such changes also shall be provided to all Owners. Upon termination of Declarant's Special Rights as provided in Section 18.1 below, the Board of Directors of the Association shall exercise the Declarant's rights in this Section 4.4.

4.5 Community Association Assessments. The Community Association and the Community Declaration have been established by Mt. CB Real Estate, LLC (the "Community Association Declarant") for the purpose of enhancing and developing the properties in the central core area of Mt. Crested Butte, including the Project, which will benefit the Project, the Elevation Association, Resort Units, and Commercial Units. Declarant hereby reserves the right to annex the Project into the Community Declaration and/or amend this Declaration to include among the Assessment obligations of the Owners various assessments that are payable to the Community Association under the Community Declaration (referred to herein as the "Community Association



Assessments”), without the necessity of first obtaining the consent of any of the Owners or Mortgagees. Declarant may exercise such powers by executing and recording an amendment to this Declaration in the real property records of Gunnison County, Colorado, that either annexes the Project to the Community Declaration or describes the Community Association Assessments payable under the Community Declaration that will thereafter be additional Assessments payable under this Declaration, and consenting to the recordation of a Supplement to the Community Declaration annexing the Project to the Community Declaration. Such Community Association Assessments shall be payable either directly to the Community Association or to the Elevation Association for further payment to the Community Association, as set forth in the amendment to this Declaration. This reserved right shall terminate upon the conveyance of all Units that may be created by Declarant or any Successor Declarant to Owners other than a Successor Declarant.

4.6 Ownership of Common Elements. The Common Elements shall be owned by the Association, subject to the rights of Owners and the Declarant as set forth herein. Declarant shall convey the Common Elements to the Association immediately after recordation of this Declaration.

4.7 Storage Lockers. Storage Lockers within the Building shall be reserved for the exclusive use of each of the Owners of the Storage Lockers and their tenants. Storage Lockers will be assigned to Resort Units as Limited Common Elements at the time of the initial conveyance of a Resort Unit by the Declarant to an Owner. The Storage Lockers, once allocated to a Resort Unit, shall be automatically conveyed with such Resort Unit and may not be conveyed separately from such Resort Unit, but may be reallocated among Resort Units with the consent of the Owners of such Resort Units and their First Mortgagees.

Each Storage Locker may be used for the purpose of storage of personal items and other uses that may be permitted by the Board of Directors of the Association, subject to reasonable regulations adopted by the Board of Directors of the Association. Each Owner shall be responsible for keeping the surface of the Storage Locker free of debris. The storage of gasoline and other flammable materials, or noxious or hazardous wastes or materials of any kind within a Storage Locker is strictly prohibited.

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

5.1 Membership. Every Owner of a Resort Unit and every Owner of a Commercial Unit shall be a Member of the Association and shall remain a Member for the period of his ownership of a Resort Unit or Commercial Unit. Each Resort Unit shall be entitled to one vote to be exercised by the Owner or Owners thereof. Each Commercial Unit shall be entitled to fifteen (15) votes to be exercised by the Owner or Owners thereof.

5.2 Board of Directors. The affairs of the Association shall be managed by a Board of Directors which shall consist of seven (7) members. From the date of formation of the Association until the termination of the Period of Declarant’s Control, as defined below, Declarant shall have the right to appoint and remove all members of the Board of Directors and all officers of the Association. The Period of Declarant’s Control of the Association shall terminate upon the first to occur of: (i) conveyance of all of the Units that may be created to Owners other than a Successor Declarant; or (ii)

thirty (30) years after the first conveyance of a Resort Unit to an Owner other than a Successor Declarant. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of the Period of Declarant's Control, but, in that event, Declarant may require, for the duration of the Period of Declarant's Control, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective. Upon termination of the Period of Declarant's Control as provided above, the Owners shall elect the Board of Directors of seven (7) members and the Board of Directors shall elect the officers, with such Board members and officers to take office upon election. As provided in the Articles, upon the expiration of the Period of Declarant's Control, the Commercial Members shall be entitled to elect four (4) members of the Board of Directors and the Resort Members shall be entitled to elect three (3) members of the Board of Directors, each voting as a class. The provisions of this Section 5.2 and the Articles of Incorporation and By-Laws of the Association governing the number of Directors of the Association and voting for Directors may not be amended without the express written consent of the Owners of all of the Commercial Units.

ARTICLE VI

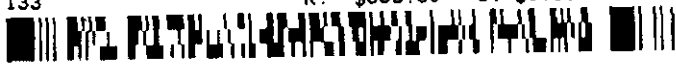
THE ASSOCIATION

6.1 Management and Maintenance Duties. Subject to the rights of Owners as set forth in this Declaration, the Association shall:

(a) Be responsible for the management, control, maintenance, repair, replacement, and improvement of the Common Elements and any other property owned by the Association, including facilities, furnishings, and equipment related thereto, and shall keep the same in good, clean, attractive, and sanitary condition, order, and repair; provided, however, that each Owner shall be responsible for maintenance, repair, and replacement of all fixtures, equipment, and utilities installed or located within such Owner's Unit (except the fire sprinkler line that shall be maintained by the Association), and all other equipment providing exclusive service thereto or therefor and any service lines from such equipment to the Unit, including without limitation all utility, heating, plumbing, and domestic hot water equipment and appurtenances, but only to the extent such fixtures, equipment, and utilities are owned by said Owner or are Limited Common Elements appurtenant to such Owner's Unit.

(b) Perform and/or pay the costs of any exterior maintenance, repair, replacement, and modification to the Elevation Building and landscaping, parking areas, drives and private roads, walkways, planters, and other site improvements thereon upon a determination by the Community Association that the exterior of the Elevation Planned Community Project has fallen into a state of disrepair or poor maintenance.

(c) Perform and/or pay the costs of maintenance, repair, and reconstruction of those Commercial Units upon which Owners are authorized to park vehicles. Such Commercial Units upon which Owners are authorized to park vehicles upon recordation of this Declaration are Commercial Units C-P101, C-P102, C-P201, C-P202, C-P203, C-P204, C-P205, C-ML06, and C-ML09. The use of such Commercial Units is subject to the provisions of Section 4.4 above.



The expenses, costs, and fees of such management, operation, maintenance, repair, replacement, and improvement by the Association, as provided in this Section 6.1, shall be part of the Monthly Assessment (as defined below) levied by the Association; provided that the Association may levy the costs and expenses associated with any of the following as an "Individual Purpose Assessment" against the Owner of the Unit involved: expenses of maintaining, repairing, and replacing all fixtures, equipment, appliances, and utilities which are Common Elements but provide exclusive service to such Owner's Unit and any service lines from such equipment to the Unit, including without limitation all utility, heating, plumbing, air conditioning, and domestic hot water equipment and appurtenances. The prior approval of the Owners shall not be required in order for the Association to pay any such expenses, costs, and fees.

6.2 Owner's Negligence or Failure to Maintain; Prohibition of Certain Activities.

(a) Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair, or replacement of the Common Elements, or any portion thereof, is caused through or by the negligent or willful act or omission of an Owner, an Owner's tenant or by any member of an Owner's or tenant's family or by an Owner's or tenant's guests, invitees, licensees, or concessionaires, then the expenses, costs, and fees incurred by the Association for such maintenance, repair, or replacement shall be the personal obligation of such Owner; and, if not repaid to the Association within ten (10) days after the Association shall have given notice to the Owner of the total amount of such expenses, costs, and fees, or any portions thereof, from time to time, then the failure to so repay shall automatically become a Default Assessment (as defined below) determined and levied against such Unit.

(b) In the event an Owner fails to perform any cleaning, maintenance, repair, or replacement which is his responsibility under this Declaration, and such failure has not been cured within five (5) days after written notice has been given to such Owner by the Association, the Association may perform the cleaning, maintenance, repair, or replacement, and all charges incurred by the Association in connection therewith, together with an administrative fee in the amount of twenty-five percent (25%) of such cost shall be the personal obligation of the Owner and may be levied as a Default Assessment against such Owner and his Unit. The Association and its officers, contractors, and representatives shall have and are hereby granted an easement for access to each Unit and the Common Elements for the purpose of exercising its rights under this Paragraph 6.2(b).

(c) Nothing shall be done or kept in any Unit or in or on the Common Elements, or any part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit, or other imposed requirement of any governmental body having jurisdiction over the same. No damage to, or waste of, the Common Elements, or any part thereof, shall be committed by any Owner or Owner's tenant, or by any member of an Owner's or tenant's family, or by a guest, invitee, licensee, or concessionaire or contract purchaser of any Owner or Owner's tenant. Each Owner shall indemnify and hold the Association and the other Owners harmless from and against all loss and damage resulting from any action or activity committed by him, his tenant, or the members of his or his tenant's family, his or his tenant's guests, invitees, licensees, or contract purchasers, which is in violation of this Paragraph 6.2(c). At its own initiative or upon the written request of any Owner (and if the Association determines that further action by it is proper), then the amounts to be indemnified shall be and constitute a Default Assessment determined and levied against the Owner's Unit.



6.3 Management Agreements and Other Contracts. The Association shall have professional management of its business affairs. Any management agreement entered into by the Association and/or the Owners of the Units shall include the following: (a) the management company shall provide in-room phone, internet, cable television, and movies on demand for guests staying in a Resort Unit and shall enter into contracts with the owner of such equipment and facilities for such purpose; (b) the management company shall offer vacation packages that include skiing and/or golf with a Resort Unit, either directly or through wholesalers that offer such packages; and (c) the management company shall provide daily maid service for the Resort Units and the Common Elements when the Project is open for business.

6.4 Acquiring and Disposing of Real and Personal Property. The Association may acquire, own and hold for the use and benefit of all Owners, tangible and intangible personal property and real property for such uses and purposes as the Board of Directors of the Association may in its discretion deem appropriate from time to time, and may dispose of the same by sale or otherwise. Each Owner may use such personal and/or real property in accordance with the purposes for which such property is intended and in accordance with such conditions, limitations, restrictions, and rules and regulations as may be placed on any such property by the Board of Directors of the Association in its sole discretion from time to time, provided that such use of any Owner shall not hinder or encroach upon the lawful rights of other Owners.

6.5 Promulgation of Rules and Regulations. The Board of Directors of the Association may promulgate and enforce, including, without limitation, enforcement by levying and collecting charges and fines for the violation thereof, reasonable rules and regulations governing the use of the Units, Common Elements, and any other property owned by the Association or the Owners in Common, which rules and regulations shall be consistent with the rights and duties established in this Declaration.

6.6 New Additions to Common Elements. The Association shall have the right to construct new additions to the Common Elements. Any such additions to the Common Elements shall be owned by the Association. The common expenses for any such additions to the Common Elements shall be apportioned among all Units as provided in Article VII hereof.

6.7 Assignment of Right to Future Income. The Association shall have the right to assign its future income, including the right to receive assessments for Common Expenses, in accordance with the following procedures. After approval by the Board and its recommendation that the proposed assignment of future income is in the best interest of the Association and is consistent with the sound future management of the Elevation Planned Community Project, together with an explanation, in such detail as the Board may deem appropriate, of the justification for such assignment of future income, the terms and conditions of the proposed assignment of future income must be approved by Owners holding at least fifty-one percent (51%) of the votes of the Association.

6.8 Conveyance or Encumbrance of Common Elements. The Association may convey or grant a security interest in portions of the Common Elements as security for any loan or loans obtained by the Association. The Association may convey, lease, or grant licenses in and to portions of the



General Common Elements to the Community Association in connection with the maintenance, repair, and replacement of such General Common Elements by the Community Association.

6.9 Contracts, Licenses and Agreements. The Association, through its Board, shall have the right to enter into, make, perform, or enforce contracts, leases, licenses, agreements, easements, and/or rights-of-way, for the use by Owners, other persons, their family members, guests, and invitees, of real property for pedestrian and vehicular access, ingress and egress to and from the Elevation Planned Community Project, or any portion thereof, for vehicular parking, for on-site management, or for recreational use, and contracts, licenses, leases, or other agreements for the provision of cable or satellite television service to the Elevation Planned Community Project, or any portion thereof. Any of such contracts, leases, licenses, agreements, rights-of-way, or easements shall be upon such terms and conditions as agreed to by the Board of Directors of the Association, which may include provisions by which the Association covenants and agrees that it shall pay part or all of the costs and expenses of maintaining such real property, and the improvements thereto and thereon, providing such cable or satellite television service, or other amounts which the Board determines are necessary to secure such contracts, licenses and agreements, and any such costs and expenses shall be the Association as Monthly Assessments.

6.10 Attorney-in-Fact. The Association is hereby irrevocably appointed attorney-in-fact for the Owners of all Units 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 and to exercise all of its rights hereunder, to deal with the Elevation Building or obsolescence as herein provided, and to deal with and handle insurance and insurance proceeds and condemnation and condemnation awards as herein provided. The Association shall, without limiting the foregoing, be attorney-in-fact for all Owners for purposes of executing, delivering, and recording such instruments as are necessary for any purpose provided herein. The acceptance by any person or entity of any interest in any Unit shall constitute an appointment of the Association as an attorney-in-fact as provided above and herein.

ARTICLE VII

ASSESSMENTS

7.1 Personal Obligation for Assessments. All Owners of Resort Units and Commercial Units covenant and agree, and shall be personally obligated, to pay to the Association all of the following assessments (collectively the "Assessments") which are defined and described in this Article: (a) Monthly Assessments imposed by the Association to meet the common expense and reserve requirements of the Association; (b) Special Assessments, pursuant to Section 7.7 of this Declaration; (c) Individual Purpose Assessments, pursuant to Section 7.8 of this Declaration; and (d) other charges, costs, interest, fees, and assessments, including without limitation assessments ("Default Assessments") relating to defaults, acts, errors, or omissions of an Owner, or his family, tenants, guests, or invitees, as provided in this Declaration. All Owners of each Resort Unit or Commercial Unit shall be jointly and severally liable to the Association for the payment of all Assessments, charges, costs, interest, and fees attributable to their Unit. The payment of any and all Assessments is an independent covenant, with all Assessments payable in full, when due, without notice (except as otherwise expressly provided in this Declaration) or demand, and without set-off or deduction. No



Owner may waive or otherwise escape personal liability for the payment of the Assessments, charges, and fees provided for herein by non-use of the Common Elements or the facilities contained therein or by abandonment or leasing of his Unit. In addition to the foregoing Assessments, charges, and fees, each Owner shall have the obligation to pay real property ad valorem taxes and special assessments imposed by Colorado governmental subdivisions against his Resort Unit or Commercial Unit, as well as all charges for separately metered utilities servicing his Resort Unit or Commercial Unit. The charges for utilities which are not separately metered to an individual Elevation or Commercial Unit by the applicable utility company may be collected by the Association as part of the Monthly Assessments; however, the charges for such utilities shall be allocated among the Resort Units and Commercial Units based on actual usage, if such is measured, or based upon the allocation in Exhibit C attached hereto and incorporated herein by this reference.

7.2 Allocation of Expense. All expenses of the Association (other than Individual Purpose Assessments and Default Assessments) shall be allocated between the Resort Unit Owners and the Commercial Unit Owners in accordance with the provisions of Exhibit C. Any expense not listed in Exhibit C shall be allocated between the Resort Unit Owners and the Commercial Unit Owners based upon the Board's reasonable determination of the relative benefit of each such expense to the Resort Unit Owners and to the Commercial Unit Owners. All Assessments (other than Individual Purpose Assessments and Default Assessments) will be allocated among the Resort Units and among the Commercial Units in accordance with the Percentage Interests set forth in Exhibit B attached hereto and incorporated herein by this reference, with the Commercial Unit Owners being obligated to pay only the Commercial Share of expenses under Exhibit C and the Resort Unit Owners being obligated to pay only the Elevation Share under Exhibit C.

7.3 Monthly Assessments; Budgets.

(a) Until the Association makes an Assessment, Declarant shall pay all common expenses. After any Assessment has been made by the Association, a monthly assessment ("Monthly Assessment") shall be payable monthly, with the amount of the Monthly Assessment to be determined by the Board of Directors from time to time (but no less frequently than annually) based on a budget adopted from time to time by the Association (but no less frequently than annually) and allocated to the Commercial Units and Resort Units as provided in Section 7.2 above. The Board of Directors of the Association shall prepare each proposed budget assuming the Association's books and records are maintained on an accrual basis, to provide for the payment of all estimated expenses, costs, and fees for the duties described in Section 6.1 of this Declaration and for other costs, fees, and expenses, related to or connected with the administration, maintenance, ownership, repair, operation, addition, alteration, and improvement of the Elevation Planned Community Project, the Common Elements, other real or personal property owned by the Association, and any other obligations which may be undertaken by the Association. The amount of said advance budget may include, but shall not be limited to: expenses of management; premiums for insurance; common lighting and heating; maintenance, repair, replacement, and renovation of the Common Elements; wages; charges for utilities; taxes; legal and accounting fees; management fees; costs, expenses, and liabilities incurred by the Association's Board of Directors on behalf of the Owners or otherwise arising under or by reason of this Declaration, the Articles or By-Laws of the Association; the creation of reasonable reserves, working capital, and/or sinking funds; reimbursement for or payment of any operating deficit, loss, or unbudgeted expense incurred by the Association; repair and replacement of furniture, furnishings and

finishes located within the Resort Units; and any and all other costs and expenses relating to the Common Elements, real or personal property owned by the Association, and/or any other obligations undertaken by the Association.

(b) Within ninety (90) days after adoption of any proposed budget, the Board of Directors shall mail by ordinary first class mail, post on the Association's website, or otherwise make available a summary or copy of the budget to all Owners for their information.

(c) All funds of the Association remaining unspent at the end of each fiscal year of the Association shall remain the property of the Association to be used in subsequent years for such purposes as the Association may determine and need not be returned to the Members or credited to subsequent Assessments.

7.4 Reserves; Capital Improvement Fund. The Association shall establish an adequate reserve and capital improvement fund for the maintenance, repair, and replacement of those Common Elements that must be periodically maintained, repaired or replaced, for payment of insurance deductibles, and for maintenance, repair, and replacement of furniture, furnishings, and finishes within each Resort Unit. Such reserves shall be included in the budget and funded through the Monthly Assessments. The Board of Directors of the Association shall adopt a capital improvement plan for the periodic replacement and refurbishment of interior and exterior Common Elements and furniture, furnishings and finishes within each Resort Unit. The capital improvement fund shall be funded in accordance with the capital improvement plan and shall be available to pay for periodic replacement of exterior and interior Common Elements and furniture, furnishings, and finishes within each Resort Unit in accordance with the plan. The reserve and capital improvement funds for the periodic replacement and refurbishment of furniture, furnishings and finishes within the Resort Units shall be the sole obligation of the Resort Unit Owners and shall not be included in Assessments to be paid by the Commercial Unit Owners. The repair and replacement of furniture, furnishings, and finishes within the Commercial Units shall be the sole obligation of the Owner of each Commercial Unit.

7.5 Date of Payment of Monthly Assessments. The Monthly Assessments and the Maintenance Assessments shall be due and payable on the first day of each month, in advance, or on such other dates, and with such frequency (but no less frequently than annually), as may be set by the Board of Directors of the Association from time to time. Any person purchasing a Unit between Monthly Assessment due dates shall pay a pro rata share of the last Assessment due.

7.6 Rate of Assessment. Both Monthly and Special Assessments shall be fixed at such rates as will be sufficient to meet the advance budget of the Association, as provided in Sections 7.3 and 7.7 hereof.

7.7 Special Assessments. In addition to the Monthly Assessments authorized above, the Board of Directors of the Association may at any time, from time to time, determine, levy, and assess a special assessment ("Special Assessment") for the purpose of defraying, in whole or in part, payments for any operating deficit, loss or unbudgeted expense, and/or unbudgeted costs, fees, and expenses of any construction, reconstruction, repair, demolition, replacement, management, administration, or maintenance of the Common Elements including without limitation any fixtures and personal property related thereto. Special Assessments shall be based on a budget adopted in accordance with Section



7.3; provided that, if necessary, the Association may adopt a new budget pursuant to Section 7.3 prior to levying a Special Assessment. Such Special Assessment(s) shall be due and payable as determined by the Association's Board of Directors. Special Assessments shall be allocated among Resort Units and Commercial Units as provided in Section 7.2 above.

7.8 Individual Purpose Assessments.

(a) In addition to the Monthly and Special Assessments as hereinabove provided, the Board of Directors of the Association may at any time, or from time to time, levy and collect Assessments against any one or more, but fewer than all, of the Resort Units and/or Commercial Units, for any matters applicable only to such Resort Units or Commercial Units (referred to herein as "Individual Purpose Assessments"). Such Individual Purpose Assessments may be levied against Resort Units or Commercial Units to pay or reimburse the Association for any costs, expenses, fees, reserves, and other charges, incurred or reasonably anticipated to be incurred by the Association, for management, control, administration, maintenance, repair, replacement, and improvement, or any other purpose, of or with respect to any matter pertaining to the Resort Unit(s) or Commercial Unit(s) against which such Individual Purpose Assessment is levied.

(b) The amounts determined, levied and assessed pursuant to this Section 7.8 shall be due and payable as determined by the Board of Directors of the Association provided that written notice setting forth the amount of such Individual Purpose Assessment for each Resort Unit or Commercial Unit and the due date(s) for payment thereof shall be given to the Owners of the affected Resort Unit(s) or Commercial Unit(s) not less than thirty (30) days prior to the due date.

7.9 Lien for Assessments.

(a) The Association is hereby granted a lien (the "Assessment Lien") on each Unit and for any Assessments levied against that Unit and for fines imposed against its Owner from the time each Assessment or fine becomes due. In addition, fees, charges, late charges, attorneys' fees incurred through appeal and final judgment, fines, and interest charged pursuant to this Declaration are enforceable as Assessments. If an Assessment is payable in installments, the full amount of the Assessment is an Assessment Lien from the time the first installment thereof becomes due.

(b) The Assessment Lien is prior to all other liens and encumbrances on a Unit except: (i) liens and encumbrances recorded before the recordation of this Declaration; (ii) a lien of a First Mortgage which was recorded before the date on which the Assessment sought to be enforced became delinquent; and (iii) liens for real estate taxes and other governmental assessments or charges against the Unit.

(c) Notwithstanding the foregoing, the Assessment Lien is also prior to the lien of a First Mortgage to the extent of (i) an amount equal to the Assessments based on a periodic budget adopted by the Association pursuant to Section 7.3 which would have become due, in the absence of any acceleration, during the six (6) months immediately preceding institution of an action to enforce the Assessment Lien, but in no event shall the priority accorded under this subsection to such Assessment Lien exceed 100% of the average Monthly Assessment and Special Assessment or Maintenance Fee (calculated on a per month basis) during the immediately preceding fiscal year



multiplied by six; and (ii) attorneys' fees and costs being incurred in an action to enforce the Assessment Lien through appeal and final judgment.

(d) The recording of this Declaration constitutes record notice and perfection of the Assessment Lien. No further recordation of any claim of lien or Assessment is required; however, a claim may be recorded at the Association's option, in which event costs and attorneys' fees incurred in connection with the preparation and filing of such claim shall be assessed against the Owner and his Unit as a Default Assessment.

7.10 Effect of Non-Payment of Assessments. Any Assessments, charges, costs, or fees provided for in this Declaration, including, without limitation, any Default Assessment arising under any provision of this Declaration, which are not fully paid within ten (10) days after the due date thereof, will bear interest from the due date at the rate of twenty-one percent (21%) per annum, or at such other rate as may be set by the Association from time to time (subject to any limits imposed by law), and the Association may assess a monthly late charge thereon in addition to such interest. Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessments, charges, costs, or fees, and may also proceed to foreclose its lien against such Owner's Unit in the manner of a mortgage upon such property. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments, charges, costs, or fees, may be commenced and pursued by the Association without foreclosing or in any way waiving the Assessment Lien therefor. In the event that any such Assessment, Maintenance Fee, charge, cost, or fee, is not fully paid when due and the Association shall commence such an action (or shall counterclaim or cross claim for such relief in any action) against an Owner personally obligated to pay the same, or shall proceed to foreclose its Assessment Lien against the particular Unit, then all unpaid Assessments, charges, and fees, any and all late charges and accrued interest under this Section 7.10, the Association's costs, expenses, and reasonable attorneys' fees incurred in collection efforts through appeal and final judgment, and the Association's costs of suit, expenses, and reasonable attorneys' and other professional fees incurred for any such action and/or foreclosure proceedings through appeal and final judgment, and any other costs which may be authorized by a court of competent jurisdiction shall be taxed by the court as a part of the costs of any such action or foreclosure proceeding and shall be recoverable by the Association from any Owner personally obligated to pay the same and from the proceeds of the foreclosure sale of such Owner's Unit. Foreclosure or attempted foreclosure by the Association of its Assessment Lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its Assessment Lien for any subsequent Assessments, charges, costs, or fees, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Unit at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, vote the Association votes appurtenant to ownership thereof, convey, or otherwise deal with the same. In any action brought by the Association (or counterclaim or cross claim brought by the Association) to collect Assessments or to foreclose an Assessment Lien for unpaid Assessments, the Association shall be entitled to have a receiver of the Owner and the Owner's Unit appointed by the Court to collect all sums alleged to be due from the Owner prior to or during the pendency of the action. The receiver shall have the right to collect any rents paid in connection with the use of such Owner's Unit. The Court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Assessments.



7.11 Successor's Liability for Assessments. Notwithstanding any terms and provisions of this Declaration to the contrary, the sale or transfer of any Unit shall not affect the Assessment Lien on such Unit or any other charges, costs, or fees levied hereunder, except that sale or transfer of a Unit pursuant to foreclosure of a First Mortgage or any proceeding in lieu thereof, shall extinguish the Assessment Lien (except as provided in Section 7.9), but not the personal obligation of the Owner for the payment of Assessments, which became due after the recording of the First Mortgage and prior to any such sale or transfer or foreclosure, except to the extent the Assessment Lien of the Association has priority over the First Mortgage under Section 7.9; provided, however, that any such Assessments, charges, costs, or fees which are extinguished as provided herein may be reallocated and assessed to all Units. No sale, transfer, foreclosure or any proceeding in lieu thereof shall relieve any Owner from liability for any Assessments, charges, costs, or fees, or any portion thereof. No Owner shall have personal liability for Assessments assessed with respect to a Unit that become due prior to the time he acquired title to such Unit.

7.12 Homestead Waiver. The Association's Assessment Lien on a Unit for Assessments or charges, costs, and fees, provided for herein, shall be superior to any homestead exemption as is now or may hereafter be provided by state or federal law. The acceptance of a deed to a Unit shall constitute a waiver of the homestead exemption against all such Assessments, charges, costs, and fees.

7.13 Working Capital Fund. The Association shall require the first Owner of each Resort Unit (other than a Declarant or Successor Declarant), to make at the time of purchase, a non-refundable contribution to the Association in an amount equal to two (2) times the Monthly Assessment against that Resort Unit in effect at the closing thereof (the "Working Capital Contribution"). Working Capital Contributions shall not be considered as advance payments of regular Assessments. Funds in the working capital account shall be deposited into the general fund of the Association for the use and benefit of the Association, including without limitation to meet unforeseen expenditures or to purchase additional equipment, property, or services. Such Working Capital Contribution shall not relieve an Owner from making regular payments of Assessments as the same become due. Upon the transfer of his Resort Unit, an Owner (including a Declarant if he previously paid working capital funds for the sold Resort Unit) shall not be entitled to a credit for the Working Capital Contribution and his transferee shall be required to pay a Working Capital Contribution in the amount in effect at the closing thereof. A Declarant shall not use any of the working capital funds to defray its expenses, reserve contributions, or construction costs or to make up any budget deficits.

7.14 First Mortgagees May Pay Assessments and Cure Defaults. If any Assessment on a Unit shall not be paid by the Owner thereof within thirty (30) days after the same is due, or if a default by any Owner of any provision of this Declaration, the Articles, or By-Laws of the Association, shall not be cured within thirty (30) days after written notice thereof is given to such Owner, then any First Mortgagee may (but shall not be required to) pay such Assessment, together with any other amounts secured by the Association's lien created by this Article VII, and may (but shall not be required to) cure any such default.

7.15 Statement Regarding Assessments. The Association shall furnish to an Owner or such Owner's designee or to a holder of a Security Interest or its designee upon written request, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the Association's registered agent, a statement setting forth the amount of any unpaid Assessments currently levied



against such Owner's Unit. The statement shall be furnished within fourteen (14) business days after receipt of the request and payment of any fee required by the Association or its management company and is binding on the Association, the Board of Directors and every Owner. If no statement is furnished to the Owner or holder of a Security Interest or their designee, delivered personally or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a priority lien upon the Unit for unpaid Assessments which were due as of the date of the request.

7.16 Liens. It is possible that liens other than mechanics' liens and Assessment liens may be obtained against the Common Elements, including without limitation, judgment liens, and purchase money mortgage liens.

7.17 Reallocation. If any Assessment remains unpaid for more than six (6) months after it is first due, the Association may treat such unpaid Assessment as a Common Expense to be assessed against all Resort Units and Commercial Units, provided, however, that if the Association subsequently collects all or any part of such unpaid Assessment, through foreclosure of its lien or otherwise, then any Owner who has paid a portion of such unpaid Assessment as a Monthly Assessment will be entitled to a credit in an amount equal to its *pro rata* share of the amount of the unpaid Assessment subsequently collected by the Association against any Assessments subsequently due from such Owner.

ARTICLE VIII

INSURANCE

8.1 Insurance on Common Elements. Commencing not later than the time of the first conveyance of an Resort Unit or Commercial Unit to a person other than a Declarant, the Association shall maintain the following types of insurance for the benefit of the Owners to the extent that such insurance is reasonably available, considering the availability, cost, and risk coverage provided by such insurance, and the cost of said coverage shall be paid by the Association as a common expense. Notwithstanding any of the specific insurance requirements contained in this Article VIII, the Association may change the types of insurance coverage obtained if certain of the coverages are not available at a reasonable cost and may also consider, in determining the types and amounts of insurance it needs to obtain, the then-existing requirements of First Mortgagees.

(a) A policy of property insurance covering all insurable improvements located within the Elevation Planned Community Project (including the Units and any fixtures, equipment, or other property within all of the Units that are encumbered by a First Mortgage on any Unit, but excluding any other equipment, furniture, wall trimmings, improvements, and personal property) except for land, foundation, excavation, and other matters normally excluded from coverage, in an amount not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date. Further, said policy shall contain a "Replacement Cost Endorsement" providing that any claim will be settled on a full replacement cost basis without deduction for depreciation, and include an "Inflation Guard Endorsement", an "Agreed Amount Endorsement," and if any building in the Elevation Planned Community Project has central heating or air conditioning a "Steam Boiler and Machinery Coverage

Endorsement" with minimum coverage per accident for to equal the lesser of \$2 million or the insurable value of the Elevation Planned Community Project. The Association will also purchase endorsements, and/or coverage on personal property owned by the Association, including fixtures and building service equipment, furnishings, common personal property, and supplies. Such insurance shall afford protection against at least the following:

(i) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement; and

(ii) such other risks as shall customarily be covered with respect to projects similar in construction, location, and use, including all perils normally covered by the standard "all risk" endorsement, where such is available.

(b) A comprehensive policy of public liability insurance covering the Elevation Planned Community Project insuring the Association in an amount not less than One Million Dollars (\$1,000,000.00) covering bodily injury, including liability for death to persons, personal injury, and property damage arising out of a single occurrence. Such coverage shall include, without limitation, legal liability of the insured's for property damage, bodily injuries, and deaths of persons in connection with the operation, maintenance, or use of the Elevation Planned Community Project, legal liability arising out of lawsuits related to employment contracts of the Association, and protection against liability for non-owned and hired automobiles; such coverage may also include, if applicable, comprehensive automobile liability insurance, liability for property of others, host liquor liability, water damage liability, contractual liability, workmen's compensation insurance for employees of the Association, and such other risks as may customarily be required by private institutional mortgage investors with respect to Planned Community projects similar in construction, location, and use.

(c) A policy providing employee dishonesty coverage to protect against dishonest acts on the part of officers, directors, trustees, and employees of the Association and all others who handle or are responsible for handling funds of the Association, in an amount at least equal to the greater of (i) the estimated maximum of funds, including reserves, in the custody of the Association at any given time and (ii) three (3) months' aggregate assessments on all Units plus reserves. Such coverage shall meet the following requirements:

(i) all such coverage shall name the Association as an obligee;

(ii) such coverage shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

In the event the Association has delegated some or all of its responsibility for the handling of funds to a managing agent, the Association may require the managing agent to purchase at its own expense, a policy of employee dishonesty coverage which fully complies with the provisions of this Paragraph (c).

(d) A policy providing directors and officers liability insurance in relation to their duties and responsibilities in acting as directors and officers on behalf of the Association.



(e) In addition, the Association may obtain insurance against such other risks of a similar or dissimilar nature, as it shall deem appropriate, to the extent that such coverage is reasonably available.

8.2 General Provisions of Insurance Policies. All policies of insurance carried by the Association shall be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Owners, and each Owner shall be an insured person under such policies with respect to liability arising out of such Owner's interest in the Common Elements or membership in the Association. The policy or policies shall contain a standard non-contributory First Mortgagee's clause in favor of each First Mortgagee and a provision that it cannot be canceled or materially altered by either the insured or the insurance company until thirty (30) days' prior written notice thereof is given to the insured, to each First Mortgagee. The Association shall furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question, to any party in interest, including First Mortgagees under the Declaration, upon request. All policies shall contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner unless acting within the scope of such Owner's authority on behalf of the Association. The policies shall also contain a waiver by the insurer of any right to claim by way of subrogation against the Owners, each person or entity who is a Declarant, the Association, and their respective officers, directors, and members and any of such parties' respective families, agents, employees, or tenants. The liability insurance policy provided for under Section 8.1(b) shall insure the Board of Directors, the Association, any management agent, and their respective employees, agents, and all persons acting as agents. Each person or entity who is a Declarant shall be included as an additional insured in its capacity as an Owner and, if applicable, a member of the Board. The Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements. Such liability insurance shall cover claims of one or more insured parties against the other insured parties.

8.3 Deductibles. The Board of Directors of the Association shall use its reasonable business judgment in determining the deductible amount under any policy of insurance of which the Association or its designee is the beneficiary. Any loss falling within the deductible portion of such policy shall be a common expense shared by all of the Owners. Notwithstanding the foregoing, after notice and hearing, the Association may determine that a loss, either in the form of a deductible to be paid by the Association or an uninsured loss, resulted from the act or negligence of an Owner, and assess such loss as a Default Assessment against such negligent Owner and his Resort Unit, subject to all provisions of this Declaration applicable to such Assessments.

8.4 Insurance Trustee. The Board of Directors shall have authority to authorize an insurance trustee to assist and consult with it and/or to act as its agent and attorney-in-fact for one or more of the following purposes: to purchase and maintain the insurance required under this Declaration, to negotiate and compromise settlement of losses under any insurance; and to collect the proceeds from any insurance, hold such proceeds in trust for the Owners and their First Mortgagees as their interest may appear and dispose of such proceeds as provided in Article XIII of this Declaration. The Association and any insurance trustee designated by the Board of Directors shall have exclusive authority as agent and attorney-in-fact for the Owners to purchase and maintain all insurance required



under this Article, to negotiate, settle, and compromise any claims under such insurance, to receive all proceeds from such insurance and apply them as provided under this Declaration, to execute releases of liability in connection with the negotiation and settlement of claims, and to execute all documents and perform all acts that may be necessary or desirable to carry out the Association's and insurance trustee's rights and duties under this Declaration.

8.5 Association Insurance as Primary Coverage. If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, such Association policy shall be primary insurance not contributing with any of such other insurance. An Owner shall be liable to the Association for the amount of any diminution of insurance proceeds to the Association as a result of policies of insurance of such Owner and for reimbursement to the Association for the deductible under the Association's insurance policy; provided that if such amount(s) are not repaid to the Association within ten (10) days after the Association shall have given notice to the Owner of the total of such amount(s), from time to time, then the failure to so repay shall automatically become a Default Assessment determined and levied against such Unit and Owner.

8.6 Acceptable Insurance Companies. Any hazard insurance policy purchased by the Association must be written by a hazard insurance carrier which has a current rating by Best's Insurance Reports (or a comparable rating by any successor or generally accepted substitute for Best's) of B/VI or better, or a financial rating of Class V provided it has a general policy holder's rating of at least A, and is authorized by law to do business in the State of Colorado. The Association shall not obtain any policy where (a) under the terms of the insurance company's charter, By-Laws, or policy, contributions or assessments may be made against the mortgagor or mortgagee's designee or (b) under the terms of the carrier's charter, By-Laws, or policy, loss payments are contingent upon action by the carrier's Board of Directors, policy holders or members, or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or any Owner from collecting insurance proceeds.

8.7 Insurance to be Maintained by Owners. Insurance coverage on furnishings, including carpet, draperies, improvements and betterments, and other items of personal property belonging to an Owner, and public liability coverage within each Resort Unit and Commercial Unit and appurtenant Limited Common Elements, shall be the sole and direct responsibility of the Owner(s) thereof, and the Association, its Board of Directors and/or the managing agent of the Association shall have no responsibility therefor; provided, however, that the Board of Directors of the Association may elect to include any such coverage in any Association policy and any costs of such coverage not allocable to the Owners on a uniform basis shall be assessed as an Individual Purpose Assessment. The Association shall be an additional named insured on all such insurance policies obtained by Owners. Each Owner shall provide the Association with a copy of the insurance certificate evidencing such insurance each year, unless and until the Association obtains the described coverage in an Association policy.

8.8 Annual Review of Insurance Policies. All insurance policies carried by the Association shall be reviewed at least annually by the Board of Directors of the Association to ascertain that the coverage provided by such policies adequately covers those risks insured by the Association. Prior to

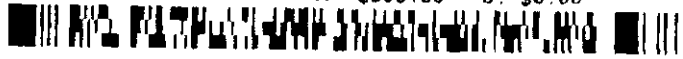


obtaining any policy of fire insurance or renewal thereof, the Board of Directors or the managing agent of the Association may obtain a written appraisal from a duly qualified real estate or insurance appraiser, or other person knowledgeable as to replacement costs, which appraiser shall reasonably estimate the full replacement value of the improvements for the purpose of determining the amount of insurance required pursuant to the provisions of this Article. Any First Mortgagee shall be furnished with a copy of such appraisal upon request.

8.9 Notice of Cancellation. If any insurance that the Association is required to maintain under this Article VIII is not reasonably available or is cancelled or not renewed without a replacement policy having been obtained, the Association promptly shall cause notice of that fact to be hand delivered, emailed or sent prepaid by U.S. Mail to all Owners.

8.10 Prohibition of Increases in Insurable Risks and Certain Activities. Nothing shall be done or kept in any Unit or in or on the Common Elements, or any part thereof, which would result in the cancellation of any insurance on the Elevation Planned Community Project, or any part thereof, or increase in the rate of any insurance on the Elevation Planned Community Project, or any part thereof, over such rates that the Association, but for such activity, would pay, without the prior written approval of the Association. Each Owner shall indemnify and hold the Association and the other Owners harmless from and against all loss and damage resulting from any action or activity committed by such Owner, the members of the Owner's family, guests, invitees or attendants, which is in violation of this Section 8.10. At its own initiative or upon the written request of any Owner (and if the Association determines that further action by it is proper), then, after affording an Owner a reasonable opportunity to be heard, the Association shall enforce the resulting indemnified amount as a Default Assessment determined and levied against the Owner's Unit.

8.11 Waiver of Claims. The Association will make no claim against any Owner or the members of such Owner's household, the holder of any Security Interest, any other person for whom any Owner or holder of a Security Interest may be responsible, and no Owner or holder of a Security Interest will make any claim against the Association, its directors, officers, employees or agents or any other Owner or holder of a Security Interest or any of their respective employees, agents, officers or directors, for any loss or damage to any portion of the Elevation Building or any personal property located thereon, and all such claims are hereby waived to the extent that such loss or damage would be covered by any property insurance policy upon the affected property that is required to be maintained by or for the benefit of the waiving party under this Declaration (assuming such insurance policy is maintained on a one hundred percent (100%) replacement cost basis) and that is in fact maintained by such party or under which such party is named as an additional insured. All property insurance policies carried by the Association or any Owner will contain a waiver of subrogation in accordance with the preceding sentence. For purposes of this Section, the deductible amount under any property insurance policy required to be maintained by a waiving party will be deemed to be "covered" by such policy so that, in addition to waiving claims for amounts in excess of such deductible (up to the covered limits, or deemed covered limits, of such policy), such waiving party waives all claims for amounts within such deductible.



ARTICLE IX

CONVEYANCES AND TAXATION OF RESORT UNITS

9.1 Contracts Entered into Prior to Recording of Elevation Planned Community Map and Declaration. A contract or other agreement for the sale of a Unit entered into prior to the filing for record of the Elevation Planned Community Map and/or this Declaration in the office of the Clerk and Recorder of the County of Gunnison, Colorado, may legally describe such Unit in the manner set forth in Section 9.2 hereof and may indicate that the Elevation Planned Community Map and/or this Declaration are to be recorded. Upon recordation of the Elevation Planned Community Map and this Declaration in the County of Gunnison, Colorado, such description shall be conclusively presumed to describe the corresponding Unit shown on the Elevation Planned Community Map and such Unit shall be subject in all respects to this Declaration.

9.2 Contracts Entered into Subsequent to Recording of Elevation Planned Community Map and Declaration. Subsequent to the recording of the Elevation Planned Community Map and this Declaration, every contract, deed, lease, mortgage, deed of trust, will, and every other instrument affecting title to a Unit may legally describe that Unit as follows:

[Resort] [Commercial] Unit _____, ELEVATION, A PLANNED COMMUNITY, [, together with Storage Locker _____, as a Limited Common Element appurtenant thereto,] according to the Map thereof, recorded on _____, 2007, with Reception Number _____, in the records of the office of the Clerk and Recorder of the County of Gunnison, Colorado, and as defined and described in Elevation Planned Community Declaration recorded on _____, 2007, with Reception Number _____, in said records.

9.3 Legal Effect of Description. Every contract, deed, lease, mortgage, deed of trust, will, and every other instrument affecting title to a Unit which legally describes said Unit substantially in the manner set forth in Section 9.2 hereof shall be good and sufficient for all purposes to sell, convey, transfer, encumber, or otherwise affect the Unit, including all its appurtenances, and incorporate all of the rights, limitations, and burdens incident to ownership of a Unit as described in this Declaration and the Elevation Planned Community Map. Each such description shall be construed to include a non-exclusive easement for ingress and egress to and from each Unit and the use of all the General Common Elements as well as all of the Limited Common Elements appurtenant to said Unit, all as more fully provided in this Declaration.

9.4 Taxation. Each Unit shall be assessed separately for all taxes, assessments, and other charges of the State of Colorado, any political subdivision thereof, any special improvement district, and any other taxing or assessing authority. For the purpose of such assessments, the valuation of the Common Elements shall be apportioned among the Units in accordance with the Percentage Interest set forth in Exhibit B to this Declaration. The Association shall furnish to the Tax Assessor of the County of Gunnison, Colorado, and to all other appropriate persons and authorities, all necessary information with respect to such apportionment. No forfeiture or sale of any Unit for delinquent taxes,

assessments, or other governmental charges shall divest or in any way affect the title to any other Unit or to the Common Elements.

ARTICLE X

MECHANIC'S LIENS

10.1 Mechanic's Liens. No labor performed and/or materials furnished for use and incorporated in any Unit with the consent or at the request of the Owner thereof, his agent, contractor, or subcontractor, shall be the basis for the filing of a lien against a Unit of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed or such materials furnished. Each Owner shall indemnify and hold harmless each of the other Owners and the Association from and against any liability or loss arising from the claim of any mechanic's lien against the Unit of any other Owner, the Common Elements, or any part thereof, for labor performed and/or for materials furnished in work on the first Owner's Unit.

10.2 Enforcement by the Association. At its own initiative or upon the written request of any Owner, if the Association determines that further action by it is proper and the mechanic's lien(s) are not disputed claims with a reasonable basis for such dispute, the Association, after notice and hearing, shall enforce the indemnity provided by Section 10.1 hereof by collecting from the Owner of the Unit on which the labor was performed and/or materials furnished, the amount necessary to discharge any such mechanic's lien, including all costs and reasonable attorneys' fees incidental thereto, and obtain a discharge of such lien. In the event that the Owner of the Unit on which the labor was performed and/or materials furnished refuses or fails to so indemnify within seven (7) days after the Association shall have given notice to such Owner of the total amount, or any portions thereof, from time to time, to be indemnified, then the failure to so indemnify shall be a default by such Owner under the provisions of this Section 10.2 and such amount to be indemnified shall automatically become a Default Assessment determined and levied against such Unit.

10.3 Effect of Part Payment. In the event a lien attributable to labor performed and/or materials furnished on the Elevation Planned Community Project, or any portion thereof, is recorded against two or more Units, the Owner(s) of any of the affected Units may pay to the lienholder the amount of the lien attributable to such Owner's Unit and the lienholder shall release such Unit from the lien. The amount required to be paid by any such Owner in order to obtain release of his Unit from any such lien shall be equal to the quotient of (i) the amount of the lien, divided by (ii) the total number of Units affected by the lien. Partial payment and release of any such lien with respect to any Unit(s) shall not prevent the lienholder from enforcing his rights against any Unit for which payment has not been received.

ARTICLE XI

EASEMENTS

11.1 Recorded Easements. In addition to all easements and rights-of-way of record at or before the recording of this Declaration, the Elevation Property, and all portions thereof, shall be



subject to the easements as shown on any recorded plat of the Elevation Property, or any portion thereof, and as shown on the recorded Elevation Planned Community Map. Further, the Elevation Property, or portions thereof, is now or may hereafter be subject to the easements, licenses, and other recorded documents, or any of them, set forth on Exhibit C attached hereto and incorporated herein by this reference.

11.2 Encroachments. In the event that any portion of the Common Elements encroaches upon any Unit(s) or in the event that any portion of a Unit encroaches upon any other Unit(s) or upon any portion of the Common Elements, or in the event any encroachment shall occur in the future as a result of: (i) settling of the Elevation Building, (ii) alteration or repair to the Common Elements, (iii) alteration, expansion, or repair of any Units, or (iv) repair or restoration of part of the Elevation Building and/or Unit(s) after damage by fire or other casualty, or condemnation or eminent domain proceedings, then, in any of said events, a valid easement is hereby created and does exist for the encroachment and for the maintenance of the same so long as the encroachment exists. In the event that any one or more of the Units, the Elevation Building, or other improvements comprising part of the Elevation Planned Community Project, are partially or totally destroyed and are subsequently rebuilt or reconstructed in substantially the same location, and as a result of such rebuilding or reconstruction any portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment is hereby created and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or on the Units for purposes of marketability of title or other purposes. In interpreting any and all provisions of this Declaration, subsequent deeds, mortgages, deeds of trust or other security instruments relating to Units, the actual location of a Unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered, notwithstanding any minor deviations, either horizontally, vertically or laterally, from the location of such Unit as indicated on the Elevation Planned Community Map.

11.3 Emergency Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and all other similar emergency agencies or persons to enter upon the Common Elements in the proper performance of their duties.

11.4 Utilities. There is hereby created a blanket easement for the benefit of the Owners and the Association upon, across, and through the Common Elements for the installation, replacement, repair, and maintenance of utilities, including but not limited to water, sewer, gas, telephone, electricity, computer, cable, and master television antenna or cable or satellite television systems, if any. By virtue of this blanket easement, it shall be expressly permissible to erect and maintain the facilities, equipment, and appurtenances on the Common Elements necessary to repair, and maintain water and sewer pipes, gas, electric, telephone, computer and television wires, cables, circuits, conduits, and meters. If any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over, or under any part or all of the Common Elements without conflicting with the terms hereof; provided, however, that such right and authority shall cease and terminate upon the earliest of thirty (30) years after recordation of this Declaration in the County of Gunnison, Colorado, conveyance by a Declarant of all Units to Owners other than a Successor Declarant, or when Declarant elects to surrender such right, at which time said reserved right shall vest in the Association. The easement



provided for in this Section 11.4 shall in no way affect, avoid, extinguish, or modify any other recorded easement(s) on the Common Elements.

11.5 Maintenance Easement. An easement is hereby granted to the Association, its officers, directors, agents, contractors, employees, and assigns upon, across, over, in, and under the Common Elements, and a right to make such use of the Common Elements as may be necessary or appropriate to perform the duties and functions which the Association is obligated or permitted to perform pursuant to this Declaration, as the case may be, including the right of the Association to construct and maintain on the Common Elements maintenance and storage facilities for use by the Association.

11.6 Drainage Easement. An easement is hereby granted to the Association, its officers, agents, employees, successors, and assigns to enter upon, across, over, in, and under any portion of the Elevation Property for the purpose of the drainage of water onto the Elevation Property from the Common Elements.

11.7 Easements of Access for Repair, Maintenance, and Emergencies. Some of the Common Elements are or may be located within a Unit(s) or may be conveniently accessible only through a Unit(s). The Owners of other Unit(s) and the Association shall have the irrevocable right, to be exercised by the Association as their agent, to have access to each Unit and to all Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair, removal, or replacement of any of the Common Elements or any utility lines or pipes (whether or not Common Elements) located therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Elevation Planned Community Project, the Common Elements or to any Unit. Subject to the provisions of Section 6.2 hereof, damage to the interior of any part of a Unit resulting from the maintenance, repair, emergency repair, removal, or replacement of any of the Common Elements or as a result of emergency repairs within any Unit at the instance of the Association, shall be an expense of all the Owners apportioned in accordance with Section 7.2. Damage to the interior part of any Unit resulting from the installation, movement, repair, emergency repair, removal, or replacement of any utility lines or pipes not servicing more than one Unit shall be the expense of the Owner whose Unit such utility lines and pipes serve and such expense shall be reimbursed through an Individual Purpose Assessment. Non-emergency repairs shall be made only during regular business hours on business days after twenty-four (24) hours' notice to the occupants of the Unit wherein such repairs are to be made, except where the occupants have no objections to earlier entry for repairs. In emergencies, the occupants of the affected Unit shall be notified of impending entry as early as is reasonably possible.

11.8 Easements Deemed Created. All conveyances of Units hereafter made, whether by a Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article XI, even though no specific reference to such easements or to this Article XI appears in the instrument for such conveyance.



ARTICLE XII

RESTRICTIVE COVENANTS

12.1 Permitted Uses. Subject to Section 12.2 hereof, all Units shall be used only for commercial, retail and hotel-type use, including uses that are customarily incident thereto, including short-term rentals, storage and Owners' vacation-related uses. The Association is hereby authorized to adopt rules and regulations governing the use and occupancy of the Units. Such rules and regulations shall be consistent with the ordinances of the Town of Mt. Crested Butte and this Declaration. Commercial Unit C-201, which contains the front desk operations, shall be used for typical hotel front desk operations at all times as the Building is open and available for occupancy.

12.2 Use Restrictions Imposed by Town of Mt. Crested Butte. Certain restrictions on the Owners' use of their Resort Unit and operations of the Project have been imposed by the Town of Mt. Crested Butte, by authority of Town ordinances and as part of the Planned Community approval process. In accordance with such ordinances and other requirements, (i) a front desk in the Elevation Building shall be staffed and kept open for at least twenty-four (24) hours on each day the Building is open for use by paying guests, (ii) Owners may not use their Resort Unit for their personal use or for use by their family members or non-paying guests (collectively, the "Owner's Users") for more than twenty-nine (29) consecutive days at any one time period or for more than sixty (60) days during any single calendar year, and (iii) each Owner's Resort Unit must be available for short-term rental, as such term is defined in the ordinances of the Town of Mt. Crested Butte, for all other days the Elevation Building is open during each calendar year. Further, in accordance with the requirements of the Town of Mt. Crested Butte, an Owner shall be prohibited from keeping his Resort Unit off the short-term rental market when such Resort Unit is not occupied personally by the Owner's Users, other than for repairs or maintenance which makes the Resort Unit unrentable. Further, the Owner of a Resort Unit may not leave a vehicle on the Project while the Owner is not physically occupying a Resort Unit. Notwithstanding the foregoing limitations, a Resort Unit may be used by the Owner's Users on a "space available basis" at any time during a calendar year. The term "space available basis" shall mean that the Owner's Resort Unit has not been reserved by a paying guest at least thirty (30) days prior to the date the Resort Unit is to be used by the Owner's Users. If the Town of Mt. Crested Butte revises its ordinances governing the use of the Resort Units and such revisions are determined to be applicable to the Resort Units, the Association is hereby authorized to revise its rules and regulations in a manner that is consistent with such changes and the provisions of this Section 12.2 shall be deemed to have been amended and shall be interpreted and enforced in accordance with such revisions. The Elevation Association and/or the Town may bring an action against any Owner who violates this Section 12.2. In addition, the Owner's Users' use of the Resort Unit may be limited, in the discretion of the Declarant, during the "Shoulder Seasons," as determined from time to time by such Declarant. The term "Shoulder Seasons" initially shall mean the time period between September 30 and December 1 of each year and the time period between the closing date of the Crested Butte Ski Area and June 1 of each year.

12.3 Declarant's Use. Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for a Declarant, its employees, agents, and contractors, to perform such reasonable activities and to maintain upon portions of the Elevation Planned Community Project such facilities as a Declarant deems reasonably necessary or incidental to



the completion and sale of Units and the exercise of Declarant's development rights, specifically including without limiting the generality of the foregoing, maintaining business offices, storage areas, signs, model units, sales offices, parking areas, construction offices, and short-term rentals. Declarant reserves the right to relocate any sales office and model or management office to any other Unit then owned by a Declarant. The rights retained by Declarant in this Section 12.3 shall terminate upon conveyance by a Declarant of all Units to Owners other than a Successor Declarant.

12.4 Household Pets. No animals, livestock, poultry, or insects, of any kind, shall be raised, bred, kept or boarded in or on the Elevation Planned Community Project; no dogs, cats, or other household pets may be kept in any Resort Unit without the prior written approval of the Board of Directors of the Association, which approval may be withheld or granted, with or without conditions, in the sole discretion of the Board. The Association shall have and is hereby given, the right and authority to determine in its sole discretion that dogs, cats, or other household pets, if permitted by the Board, are being kept in such number or in such manner as to be unreasonable or to create a nuisance to other Owners, or that an Owner is otherwise in violation of this Section 12.4, and to take such action or actions as it deems reasonably necessary to correct the same, including prohibiting the pet(s) from being kept in a Unit. An Owner's license to keep household pets, if granted by the Board, is revocable by the Board and shall be coupled with the responsibility to pay for any damage caused by such Owner's pet(s), as well as any costs incurred by the Association as a result of such pet(s), and any such amounts shall be and constitute a Default Assessment subject to and enforceable by the Association in accordance with this Declaration.

12.5 Use of Common Elements. Subject to the rights of Declarant as provided in this Declaration and the Owner(s) of the Commercial Units, there shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements without the prior written approval of the Association. Except for those improvements erected or installed by a Declarant in its completion of the Elevation Planned Community Project, and except as provided in Sections 2.4, 12.3, 12.6, 12.7, and Article XVIII hereof, nothing shall be altered on, constructed in, or removed from the Common Elements without the prior written approval of the Board of Directors of the Association.

12.6 Exterior and Interior Changes. Except for those improvements erected, constructed, or installed by the Declarant in its completion of the Elevation Planned Community Project or by the Owner of a Commercial Unit within its Commercial Unit or any Limited Common Elements appurtenant to such Commercial Unit, and except as provided in Sections 2.4, 12.3, 12.7 and Article 18 hereof, no exterior or interior additions to, alterations or decoration of, any Resort Unit or the Elevation Building, including but not limited to any structural alterations to any Resort Unit or Common Element, nor any changes in walls or other structures, nor installation of window mounted air conditioning units or awnings or any exterior or interior improvement of any type shall be commenced, erected, placed, or maintained by any Owner other than a Declarant, without the prior written approval of the Board of Directors of the Association. Furniture, furnishings and decorations in Resort Units shall be in conformance with standards established by the Board of Directors of the Association from time to time, which standards shall require uniform furniture, furnishings, finishes, and decorations for all Resort Units. Owners may not change the locks on any Resort Unit without the consent of the Declarant. The Elevation Association, the Declarant, and/or the Town may enforce the provisions of this Section 12.6.



12.7 Signs and Advertising. Except as hereinafter provided, no signs, including for sale or for rent signs, advertisements, billboards, unsightly objects, or nuisances of any kind shall be placed, erected, or permitted to remain in or on any Resort Unit, nor shall any sign(s) be permitted in or on the Common Elements, without the prior written approval of the Association. Notwithstanding the foregoing, reasonable signs, advertising, banners or billboards used by a Declarant in connection with its sale of Resort Units shall be permissible, provided that such use by a Declarant shall not unreasonably interfere with the Owners' use and enjoyment of the Common Elements, their Resort Units, or their ingress and egress from a public way to the Common Elements or their Resort Units. Further, notwithstanding the foregoing, the Owner(s) of the Commercial Units shall have the right to place signs within the Limited Common Elements appurtenant to such Owner(s) Commercial Unit(s) or on the General Common Elements, including bolting or otherwise affixing such signs on the exterior of the Elevation Building, without the necessity of obtaining the approval of the Association or any Owners, but subject to obtaining any required Town approval for any exterior signage.

12.8 Leases. The term "lease" as used herein shall include any agreement for the leasing or rental of a Resort Unit. The Owner of a Resort Unit shall have the right to lease his Resort Unit under the following conditions:

(a) All leases shall be in writing and a copy of the lease or lease form shall be delivered to the Board of Directors of the Association or the Association's managing agent prior to the effective date of the lease or prior to using the lease form.

(b) All leases shall provide that the terms of the lease and lessee's occupancy of the Resort Unit shall be subject in all respects to the provisions of this Declaration, the Articles, By-Laws, and rules and regulations of the Association, and that any failure by the lessee to comply with any of the aforesaid documents, in any respect, shall be a default under the lease. Any lease that violates the provisions of this Declaration or rules and regulations adopted by the Board of the Association shall be deemed in default and the Association may bring an action to terminate such lease and the lessee's occupancy of the premises.

(c) No lease shall be for less than one (1) day or more than twenty-nine (29) consecutive days. An Owner may not lease a Resort Unit for more than two (2) twenty-nine (29) consecutive day periods to the same lessee in any calendar year.

12.9 Nuisances. No nuisance shall be allowed on the Elevation Planned Community Project, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful enjoyment or possession and proper use of the Elevation Planned Community Project by its residents. As used herein, the term "nuisance" shall not include any activities of a Declarant in regard to the completion of the Elevation Planned Community Project. All parts of the Elevation Planned Community Project shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage shall be allowed to accumulate, nor any fire hazard to exist. Further, no immoral, improper, offensive, or unlawful use shall be permitted or made of the Elevation Planned Community Project or any part thereof. All valid laws, ordinances, and regulations of all governmental bodies having jurisdiction over the Elevation Planned Community Project, or any portion thereof, shall be observed.



12.10 Interior Furnishings and Finishes. Interior furniture, furnishings, finishes and decorations used in all Resort Units shall be a uniform type and shall be the same as the interior furniture, furnishings, finishes, and decorations originally provided with the Resort Units when conveyed by the Declarant to the Owners thereof or such other building standard furniture, furnishings, finishes and decorations as may be adopted by the Board of Directors of the Association from time to time. All such interior furniture, furnishings, finishes and decorations shall be replaced when required by the Board of Directors of the Association. Each Owner of a Resort Unit shall supplement, to the extent necessary, funds in the Capital Improvement Fund when necessary to maintain, repair or replace interior furniture, furnishings, finishes and decorations in each Resort Unit. If an Owner fails to replace interior furniture, furnishings, finishes and/or decorations when required by the Association, the Association may replace such interior furniture, furnishings, finishes and/or decorations and charge the Owner of such Unit an Individual Purpose Assessment for the costs thereof pursuant to Section 6.2(b) above. The Elevation Association, the Declarant, and/or the Town may enforce the provisions of this Section 12.10.

12.11 Management Company Access to Building. Any management company providing rental management services to an Owner shall have access to the Building, provided that any off-site management company that does not have offices within the Building or does not lease space in the Elevation Planned Community Project shall be required to coordinate rental management services through the management company operating the front desk within the Elevation Planned Community Project or the Owner of the Commercial Unit in which the front desk is located. All rental management reservations and check-ins shall be accomplished through the front desk operation in the Elevation Planned Community Project. All housekeeping services shall be provided through the management company operating the front desk.

12.12 Employee Living Space. The Elevation Planned Community Map identifies four apartments adjacent to Commercial Unit C-ML01 that are not a part of the Project (referred to herein as the "Employee Living Spaces"). The use of the Employee Living Spaces is hereby restricted to long-term rental employees, as those terms are defined by the ordinances of the Town. The Employee Living Spaces shall not be responsible for any costs associated with the Project, other than direct utilities serving the Employee Living Spaces. The Employee Living Spaces shall continue to be used in accordance with this restriction and the requirements of the ordinances of the Town if they are annexed to the Project. If the Employee Living Spaces are demolished, they shall be reconstructed and shall continue to be subject to this use restriction and the requirements of the ordinances of the Town. Any expansion of the Project to include additional Commercial Units and/or Resort Units shall comply with the applicable community housing ordinances of the Town then in effect. The Employee Living Spaces are hereby granted an easement for support and maintenance, utility services, ingress and egress across, through, over, and under the Project.

ARTICLE XIII

DAMAGE, DESTRUCTION, TERMINATION, OBSCOLESCENCE, OR CONDEMNATION

13.1 Association as Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the Elevation Planned Community Project



and filing of an Amended Plat and/or Planned Community Map, if applicable, and in the event of its destruction, damage, obsolescence, or condemnation, including the repair, replacement, and improvement of the resort portion of the Elevation Building, any Units, Common Elements, or other portions of the Elevation Planned Community Project which have been destroyed, damaged, condemned, or become obsolete. Title to any 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 a 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 as their true and lawful attorney in their name, place, and stead, for the purpose of dealing with the Elevation Planned Community Project upon its damage, destruction, obsolescence, or condemnation, as is hereinafter provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant Secretary, or its other duly authorized officers and agents, shall have full and complete authorization, right, and power to make, execute, and deliver any contract, deed, or other instruments with respect to the interest of an Owner which are necessary and appropriate to exercise the powers herein granted. In the event that the Association is dissolved or becomes defunct, a meeting of the Owners shall be held within thirty (30) days after either such event. At such meeting a new attorney-in-fact, to deal with the Elevation Planned Community Project upon its destruction, damage, obsolescence, or condemnation, shall be appointed. Such appointment must be approved by the Owners holding sixty-seven percent (67%) or more of the votes in the Association and at least sixty-seven percent (67%) of the First Mortgagees (based upon one vote for each First Mortgage held).

13.2 Termination of Elevation Planned Community Project.

(a) The Elevation Planned Community Project shall continue indefinitely unless and until it is terminated by the taking of all of the Units by eminent domain or by agreement of the Owners holding at least sixty-seven percent (67%) of the votes of the Owners of Resort Units, at least sixty-seven percent (67%) of the votes of the Owners of Commercial Units, and First Mortgagees holding sixty-seven percent (67%) of the First Mortgages (based on one vote for each First Mortgage held or two votes for any First Mortgage on a combined unit held). The agreement of the Owners and First Mortgagees to terminate must be evidenced by their execution of a Termination Agreement (or a ratification thereof) in the same manner as a deed, by the requisite number of Owners and First Mortgagees. The Termination Agreement must specify a date after which the Agreement will be void unless it is recorded before that date. The Termination Agreement and all ratifications thereof must be recorded with the Clerk and Recorder of the County of Gunnison and is effective only upon recordation. After the recording of the Termination Agreement, the Elevation Planned Community Project will be sold and the Association, on behalf of the Owners, may contract for such sale, but the contract is not binding on the Owners unless approved by the same vote of Owners and First Mortgagees required for approval of the Termination Agreement. After approval of the sale, the Association has all power necessary and appropriate to effect the sale and until the sale has concluded and the proceeds have been distributed, the Association continues in existence with all the powers it had before termination. Proceeds of the sale must be distributed to the Owners and lienholders as their interest may appear, in accordance the provisions set forth below. Unless otherwise specified in the Termination Agreement, until title to the Elevation Planned Community Project has been transferred pursuant to a sale, each Owner and its successors in interest have an exclusive right to occupancy of a portion of the real estate that formerly constituted the Unit. During the period of that occupancy, each Owner and the Owner's successors in interest remain liable for all Assessments and other obligations



imposed upon the Owners by this Declaration. Following termination of the Elevation Planned Community Project, the proceeds of any sale of real estate, together with any insurance proceeds (if the termination occurs in connection with a damage or destruction) and the assets of the Association are held by the Association as trustee for the Owners and the holders of liens on the Resort Units, Commercial Units and Resort Units as their interest may appear.

(b) The respective interest of the Owners is as follows:

(i) except as provided in subparagraph (ii) below, the respective interests of the Owners are the fair market values of their Units and any Limited Common Elements before termination, as determined by one or more independent appraisers selected by the Association. The decision of the independent appraisers shall be distributed to the Owners and becomes final unless disapproved within thirty (30) days after distribution by Owners holding at least twenty-five percent (25%) of the total votes in the Association. The proportion of any Owner's interest to that of all Owners is determined by dividing the fair market value of that Owner's Unit by the total fair market value of all Units;

(ii) if any Unit or any Limited Common Element is destroyed to the extent that an appraisal of the fair market value thereof prior to destruction cannot be made, the interests of all Owners are their respective Percentage Interest set forth in Exhibit B to this Declaration.

(c) The proceeds available for distribution to the holders of interests in the Units after a termination shall be allocated to each Unit in accordance with its proportionate interest as provided above and each Unit's share of such proceeds shall be deposited into a separate account identified by the Unit designation and the name of the Owner and First Mortgagee thereof. From each separate account, the Association, as attorney-in-fact, shall forthwith use and disburse the total amount of such account, without contribution from one account to another, toward payment of the liens encumbering the Unit represented by such separate account, in the following order: (a) for the payment of taxes and special assessment liens in favor of any assessing entity; (b) for the payment of any Association Assessments which take priority over the lien of a First Mortgage pursuant to Section 7.9 of this Declaration; (c) for the payment of the lien of any First Mortgage; (d) for the payment of unpaid Association Assessments, charges, and fees, and all costs, expenses, and fees incurred by the Association, including customary expenses of sale; (e) for payment of junior liens and encumbrances in the order of and to the extent of their priority; and (f) the balance remaining, if any, shall be paid to the Owner(s) of the Unit.

13.3 Damage or Destruction. "Repair and reconstruction" of the improvements, as used in the succeeding subparagraphs, means restoring the improvement(s) to substantially the same condition in which they existed prior to their damage or destruction, with each Unit and the General and Limited Common Elements having substantially the same vertical and horizontal boundaries as before, and all improvements being reconstructed or repaired in substantial conformance with the Elevation Planned Community Project's original architectural plan and scheme, to the extent then reasonably and economically feasible. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, reconstruction, restoration, or replacement, in accordance with the provisions hereinafter set forth:



(a) Any loss covered by the property insurance policy maintained by the Association must be adjusted with the Association, and the insurance proceeds will be paid to the Association or an insurance trustee designated for such purpose and not to the holder of any Security Interest. The insurance trustee or the Association shall hold such insurance proceeds in trust for the Owners and lienholders as their interest may appear. Subject to the provisions of subparagraph (b) below, the proceeds must be disbursed first to the repair or restoration of the damaged property, and the Association, Owners, and lienholders shall not be entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Elevation Planned Community Project is terminated in accordance with Section 13.2. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, and such other matters of claims adjustment. The Association shall have full authority, right, and power as attorney-in-fact to cause the repair and reconstruction of the improvements. Assessments shall not be abated during the period of insurance adjustment and repair and reconstruction.

(b) Any portion of the Elevation Planned Community Project for which insurance is required under this Declaration must be repaired or replaced promptly by the Association unless: (i) the Elevation Planned Community Project is terminated in accordance with Section 13.2, in which case the provisions of that Section apply; (ii) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; (iii) the Owners who hold 80% of the votes in the Association vote not to rebuild and every Owner of a Unit or assigned Limited Common Element that will not be rebuilt concurs; or (iv) prior to the conveyance of any Unit to a person other than a Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Elevation Planned Community Project rightfully demands all or a substantial portion of the insurance proceeds.

(c) If the insurance proceeds are insufficient to repair and reconstruct the improvements, 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. Such Special Assessment shall be assessed against all Units in accordance with Section 7.7 hereof. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair, replacement or restoration of the improvements, using all of the insurance proceeds for such purpose, notwithstanding the failure of an Owner to pay the aforesaid Special Assessment. Notwithstanding the foregoing, the Association shall have authority to assess negligent Unit Owners causing any loss all deductibles paid by the Association and any amount by which the insurance proceeds are insufficient to pay the costs of repair and reconstruction.

13.4 Obsolescence. The Owners holding at least sixty-seven percent (67%) of the votes of the Owners of Resort Units and at least sixty-seven percent (67%) of the votes of the Owners of Commercial Units may agree that the Common Elements are obsolete and adopt a plan for the renewal and reconstruction thereof. If a plan for renewal or reconstruction is adopted, notice of such plan shall be recorded in the County of Gunnison, Colorado, and the expenses of renewal and reconstruction shall be payable by all of the Owners as a common expense, whether or not they have previously consented to the plan of renewal and reconstruction. The Assessment for the renewal and reconstruction of the Common Elements shall be a debt of each Owner and a lien on his Unit, and may be enforced and collected as provided in Section 7.9 and 7.10 hereof.



13.5 Condemnation. If at any time during the continuance of Planned Community ownership pursuant to this Declaration, all or any part of the Elevation Planned Community Project shall be taken or condemned by any public authority, or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Section 13.5 shall apply:

(a) All compensation, damages, or other proceeds therefrom, the sum of which is hereafter called the "Condemnation Award," shall be payable to the Association, as attorney-in-fact for the Owners, as provided in Section 13.1 above. The Association shall have the right to appear in any condemnation proceeding on behalf of the Owners.

(b) In the event that the entire Elevation Planned Community Project is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance thereof, the Planned Community ownership pursuant to this Declaration shall terminate. The Condemnation Award shall be apportioned among the Owners by the Board of Directors of the Association the same as if there had been a termination of the Elevation Planned Community Project under Section 13.2; provided, however, that if a standard different from the value of the Elevation Planned Community Project 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. 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 as provided in Section 13.2 hereof.

(c) Subject to the provisions of Article XVI hereof, in the event that less than the entire Elevation Planned Community Project is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance thereof, the Planned Community ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award, to be determined in the following manner: 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 in accordance with the Percentage Interest set forth in Exhibit B to this Declaration; (ii) the total amount allocated to severance damages shall be apportioned to those Units which were not taken or condemned; (iii) the respective amounts allocated to the taking of or damage to a particular Unit, including but not limited to the Limited Common Elements appurtenant thereto, and to the improvements an Owner has made within his 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 decree. Notwithstanding anything to the contrary contained in this Declaration, the allocation of the Condemnation Award to each affected Unit shall be based on the comparative values of the affected Units as they existed immediately prior to the condemnation, using such evidence of the appraised values as is then available, including, but not limited to, recent MAI appraisals of the affected property or comparable property. If the allocation of the Condemnation Award is already established in 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. Apportioned proceeds shall be disbursed, as soon as practicable, in the same manner as provided in Section 13.2 hereof.



(d) In the event a partial taking results in the taking of a complete Unit, the Owner(s) thereof shall automatically cease to be a Member(s) and shall execute any and all documents necessary to accomplish the same. Thereafter, the Association shall reallocate the ownership, voting rights, and Assessment ratio in accordance with this Declaration according to the principles employed in this Declaration at its inception, and shall show such reallocation of all remaining Units in an amendment of this Declaration executed by the President and Secretary of the Association. The Condemnation Award as to each such completely taken Unit shall be paid into a separate account and disbursed, as soon as practicable, in the same manner as provided in Section 13.2 hereof.

(e) Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Section 13.3 hereof.

(f) If a Unit is acquired by eminent domain or part of a Unit is acquired by eminent domain leaving the Owner with a remnant which may not practically or lawfully be used for any purpose permitted by the Declaration, the award will include compensation to the Owner for that Unit whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides, that Unit's Percentage Interest in Exhibit B is automatically reallocated to the remaining Units in proportion to the respective Percentage Interests of those Units before the taking. Any remnant of a Unit remaining after a part of a Unit is taken pursuant to this subsection (f) each of such is thereafter a Common Element.

(g) Except as provided in subsection (f) above, if part of a Unit is acquired by eminent domain, the award must compensate the Owner for the reduction in value of the Unit. Upon acquisition, unless the decree otherwise provides, the Unit shall retain its one vote in the Association, but its share of Assessments shall be reduced by the same percentage that the square footage of the Unit was reduced by the taking, and the amount of the reduction shall be allocated among all Units (including the Unit affected by the taking) pro rata in proportion to their Percentage Interest set forth in Exhibit B after the reduction described above. The reallocation of percentages pursuant to this Section shall be confirmed by an Amendment to this Declaration prepared, executed, and recorded by the Association.

ARTICLE XIV

BURDENS AND BENEFITS OF DECLARATION

14.1 Covenants Running with Elevation Property. The benefits, burdens, and all other provisions contained in this Declaration shall be covenants running with and binding upon the Elevation Property.

14.2 Binding Upon and Inure to the Successors. The benefits, burdens, and all other provisions contained in this Declaration shall be binding upon, and inure to the benefit of Declarant, the Association, all Owners, and their respective heirs, executors, administrators, personal representatives, successors, and assigns. Any right or any interest reserved or contained in this Declaration to or for the benefit of Declarant may be transferred or assigned by Declarant, either separately or with one or more of such rights or interests, to any person, corporation, partnership,



association, or other entity, by a written instrument recorded in the records of the Clerk and Recorder for Gunnison County, Colorado.

ARTICLE XV

AMENDMENT OF DECLARATION

15.1 Amendment. Except for Amendments that may be executed by a Declarant or by the Association under the provisions of this Declaration, the provisions of this Declaration and/or the Elevation Planned Community Map may be amended, in whole or in part, at any time and from time to time, by vote or agreement of Owners holding at least sixty-seven percent (67%) of the votes in the Association, and Declarant, provided that Declarant's right to consent under this Section shall expire on the first to occur of the conveyance by a Declarant of all Units to Owners (other than a Successor Declarant) or thirty (30) years after the date this Declaration is recorded in the County of Gunnison, Colorado. Notwithstanding the foregoing, any amendment that affects any Commercial Unit or Limited Common Elements appurtenant to a Commercial Unit or that changes the voting rights or allocation of votes or interests for the Commercial Units shall be approved by the Owner(s) of such Commercial Unit(s) and any amendment affecting any Special Declarant Rights shall be approved by the Declarant or a Successor Declarant.

Every Amendment to the Declaration and/or the Elevation Planned Community Map must be recorded in the office of the Clerk and Recorder of the County of Gunnison and is effective only upon recording. Except to the extent expressly permitted by this Declaration, no Amendment may create or increase any Special Declarant Rights, increase the number of Units in the Elevation Planned Community Project, or change the boundaries of any Unit (other than by combining or dividing Units) in the absence of the consent of sixty-seven percent (67%) of the votes in the Association. Amendments to the Declaration required by this Article to be recorded by the Association shall be prepared, executed, recorded, and certified on behalf of the Association by an officer of the Association designated for that purpose or, in the absence of designation, by the President of the Association.

The provisions of this Section 15.1 and the provisions of Article XVI below shall not be applicable to any amendments to this Declaration recorded by the Declarant pursuant to the provisions of Section 4.5 above.

Notwithstanding any other provision of this Declaration to the contrary, no provision of Section 6.3 or Article XII of this Declaration may be amended without the express written consent of the Town Manager of the Town.

15.2 Technical Amendment. Declarant hereby reserves and is granted the right and power to record, without the approval or consent of any Owner, First Mortgagee, or any other person or entity, technical amendments to this Declaration, the Elevation Planned Community Map, Articles, and/or By-Laws of the Association, at any time prior to the conveyance by a Declarant of all Units to Owners (other than a Successor Declarant) or thirty (30) years after the date this Declaration is recorded in the County of Gunnison, Colorado, whichever occurs first, for the purposes of correcting

spelling, grammar, dates, typographical errors, or as may otherwise be necessary to clarify the meaning of any provisions of this Declaration.

15.3 Special Amendment. Declarant hereby reserves and is granted the right and power to record, without the approval or consent of any Owner, First Mortgagee, or any other person or entity, special amendments to this Declaration, the Articles, and/or By-Laws of the Association, at any time prior to the conveyance by a Declarant of all Resort Units to Owners (other than a Successor Declarant) or thirty (30) years after the date this Declaration is recorded in the County of Gunnison, Colorado, whichever occurs first, in order to comply with any requirements of any First Mortgagees.

15.4 Recording of Amendments. To be effective, all amendments to or revocation or termination of this Declaration or the Elevation Planned Community Map must be recorded in the office of the Clerk and Recorder of the County of Gunnison, Colorado, and must contain evidence of the required approval thereof. The recordation of a certificate of the Secretary of the Association, certifying that Owners representing the requisite percentage of the Units, and the requisite percentage of First Mortgagees, if required, have consented to the amendment shall satisfy the requirement of evidence of the required approval.

15.5 Presumption of Validity. No action to challenge the validity of an amendment adopted by the Association pursuant to this Article may be brought more than one (1) year after the amendment is recorded. There will be a presumption subsequent to the recording of an amendment to this Declaration that all votes and approvals required to pass the same pursuant to this Declaration were duly obtained (at a duly called meeting of the Association, in the case of votes). Such presumption may be rebutted by an action commenced within (1) year from the date the amendment is recorded. In the absence of any such action, such presumption will be deemed conclusive.

15.6 Counterparts. Any amendment to this Declaration may be executed in several counterparts and all counterparts so executed shall constitute one document binding on all signatories thereof, notwithstanding that all signatories have not executed the original or the same counterpart. In the event that any such document is executed in counterparts, those pages from the counterparts on which signatures and/or certificates of notaries public appear may be attached to the original instrument for the recordation thereof, provided that such recorded document shall also contain a certification of the Secretary of the Association that all counterparts, as executed, are identical.

ARTICLE XVI

FIRST MORTGAGEES

16.1 Member and First Mortgagee Approval. Subject to Sections 2.4, 15.1, 15.2, and 15.3 hereof and the rights of Declarant provided for herein, but notwithstanding any other provisions of this Declaration to the contrary, the Association shall not:

(a) Unless it has obtained the prior written consent of Members holding at least sixty-seven percent (67%) of the votes in the Association and sixty-seven percent (67%) of the Eligible First Mortgagees (based on one vote for each First Mortgage held, or two votes for each First Mortgage held on a combined Unit):



(i) seek to abandon or terminate the Elevation Planned Community Project, whether by act or omission, except:

(A) for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty, or

(B) in the case of a taking by condemnation or eminent domain, in which event the provisions of Section 13.5 of this Declaration shall control; or

(C) for amendments to this Declaration, the Articles, or By-Laws of the Association made as a result of destruction, damage, or condemnation of the Elevation Property or improvements thereon;

(ii) except as permitted by Sections 2.4, 4.5, 13.5, 18.5, and 18.7, change the pro rata interest or obligations of any individual Resort Unit for the purpose of:

(A) levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or

(B) determining the Percentage Interest of each Resort Unit;

(iii) by act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements (excluding the granting of permits, licenses, and easements for public utilities or other purposes consistent with the intended use of the Common Elements or reasonably necessary or useful for the proper maintenance or operation of the Elevation Planned Community Project);

(iv) partition or subdivide any Resort Unit; or

(v) use hazard insurance proceeds for losses to any part of the Elevation Planned Community Project (whether to Resort Units or Common Elements) for other than the repair, replacement, or reconstruction of such Planned Community property in accordance with the procedures set forth in Sections 13.2 and 13.3 hereof, except as may be provided by statute in the case of substantial loss to such Resort Units and/or Common Elements.

(b) Unless it has obtained the prior written consent of at least sixty-seven percent (67%) of the total allocated votes in the Association, and fifty-one percent (51%) of the Eligible First Mortgagees (based upon one vote for each First Mortgage owned or two votes for each First Mortgage owned on a combined Unit), add or amend any material provisions of this Declaration, the Articles, or By-Laws of the Association which establish, provide for, govern, or regulate any of the following, provided that such additions or amendments shall not be considered material if they are for the purpose of correcting technical errors or for clarification only:

(i) voting rights;



- (ii) Assessments, Assessment liens, or the priority of such liens, except as provided under Section 4.5 above;
- (iii) reserves for maintenance, repair, and replacement of the Common Elements;
- (iv) responsibility for maintenance and repair of any portion of the Elevation Planned Community Project;
- (v) reallocation of interests in the Common Elements, or rights to use of the Common Elements, except as contemplated under Sections 2.4 and 13.5 hereof;
- (vi) boundaries of any Unit except as contemplated under Section 2.4 hereof;
- (vii) convertibility of Units into Common Elements or of Common Elements into Units;
- (viii) expansion or contraction of the Elevation Planned Community Project or the addition, annexation, or withdrawal of property to or from the Elevation Planned Community Project;
- (ix) insurance, including, but not limited to, fidelity bonds;
- (x) leasing of Units;
- (xi) imposition of any restriction on the right of any Owner to use his Unit or the Common Elements or to sell or transfer his Unit;
- (xii) any restoration or repair of the Elevation Planned Community Project, after a partial condemnation or damage due to an insurable hazard, other than substantially in accordance with this Declaration, the Articles, and By-Laws of the Association;
- (xiii) any action to terminate the legal status of the Elevation Planned Community Project after substantial destruction or condemnation; or
- (xiv) any provisions which are for the express benefit of First Mortgagees, or insurers or guarantors of First Mortgages.

16.2 Notice of Action. Notice of any proposed amendment to the Declaration requiring the consent of Eligible First Mortgagees shall be sent to all First Mortgagees who have provided written notice to the Association of the address to which notices are to be sent and requesting that notices be sent to such First Mortgagee ("Eligible First Mortgagees"). Upon written request therefor, an Eligible First Mortgagee, insurer, or guarantor of a First Mortgage, shall be entitled to timely written notice of:



(a) Any condemnation loss or casualty loss which affects a material portion of the Elevation Planned Community Project or any Unit subject to a First Mortgage held, insured, or guaranteed by such First Mortgagee, insurer, or guarantor of a First Mortgage;

(b) Any delinquency in the payment of Assessments or charges owed to the Association by the Owner of the Unit subject to a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer, or guarantor, or any default by such Owner in any obligation under the Declaration, Articles, or By-Laws of the Association if the Board of Directors of the Association has actual knowledge of such default, when such delinquency and/or default remains uncured for a period of sixty (60) days;

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of First Mortgagees as provided in this Article XVI.

16.3 Notice of Objection. Unless an Eligible First Mortgagee or an insurer or guarantor of a First Mortgagee entitled to consent to certain amendments or actions as provided in this Article provides the Secretary of the Association with written notice of its objection, if any, to the proposed amendment or action within sixty (60) days after the date of the notice of the proposal, the Eligible First Mortgagee or other party will be deemed conclusively to have approved of the proposed amendment or action.

16.4 Financial Statements; Audit. The Association shall maintain copies of this Declaration, the Elevation Planned Community Map, the Articles of Incorporation of the Association, the By-Laws of the Association, and any rules and regulations relating to the Elevation Planned Community Project together with all amendments to any such documents, as well as the Association's books, records, and financial statements available for inspection by the Owners, by prospective purchasers of Resort Units, and by holders, insurers, and guarantors of First Mortgages that are secured by Resort Units. The documents will be made available by advance arrangement at a reasonable time. The Association shall not be required to prepare audited statements.

16.5 Limitations on Approval Rights. No requirement stated in this Article to obtain the approval of an Eligible First Mortgagee may operate to:

(a) Deny or delegate control over the general administrative affairs of the Association by the Owners or the Board; or

(b) Prevent the Association or the Board from commencing, intervening in, or settling any solicitation or proceeding; or

(c) Prevent any insurance trustee or the Association from receiving and distributing any insurance proceeds pursuant to this Declaration.



ARTICLE XVII

MISCELLANEOUS

17.1 Period of Planned Community Ownership. The Planned Community ownership created by this Declaration and the Elevation Planned Community Map shall continue until this Declaration is terminated in any manner provided in this Declaration or by law.

17.2 Conveyance of Units. All Units, whether or not the instrument of conveyance or assignment shall refer to this Declaration, shall be subject to the covenants, conditions, restrictions, easements, reservations, rights-of-way, and all other terms and provisions contained in this Declaration, as it may be amended from time to time.

17.3 Enforcement. Except for those matters required to be submitted to arbitration pursuant to Section 17.11 below and subject to the provisions of this Section 17.3, enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges, and other provisions contained in this Declaration, the Articles, By-Laws, or rules and regulations of the Association, as amended, shall be by any proceeding at law or in equity filed in the District Court for the County of Gunnison, State of Colorado, against any person or persons violating or attempting to violate any such provision. The Association or any aggrieved Owner shall have the right to institute, maintain, and/or prosecute any such proceedings, and the Association shall further have the right to levy and collect charges for the violation of any provision of any of the aforesaid documents, which charges shall be a perpetual lien in favor of the Association against each Resort Unit, as more fully provided in Article VII hereof, but shall be subject to the following provisions if applicable.

Notwithstanding any other provisions of this Declaration, the Articles of Incorporation, or the Bylaws to the contrary, any action or arbitration brought by the Association in which it seeks to recover an unspecified amount of damages or damages in excess of \$25,000.00 or which the Association seeks to bring against the Declarant for any reason shall first be approved by the vote of the Members holding at least seventy-five percent (75%) of the voting power of the Association and seventy-five percent (75%) of the First Mortgagees. All costs and fees to be incurred in connection with such action or arbitration shall be described in a budget which is approved by the vote of Members holding at least seventy-five percent (75%) of the voting power of the Association and seventy-five percent (75%) of the First Mortgagees at the same time as the required vote of the Members is obtained to bring the action or initiate the arbitration. Any expenditure in excess of such approved budget shall be approved as an amendment to the budget which is approved by the same percentage vote of the Members and First Mortgagees. The proposed litigation budget and a summary of the claims to be asserted in the action or arbitration shall be mailed to all of the Members and First Mortgagees with a notice of the meeting describing the purpose of the meeting at least thirty (30) days prior to the date of the meeting. The costs and fees incurred in connection with such action or arbitration shall be assessed against all of the Owners, other than the Owner (including Declarant) against whom any such action or arbitration is proposed, as a Special Assessment. Such costs and fees shall not be paid from Monthly Assessments. The Association may not bring an action for breach of warranty or other claims that do not arise out of a violation of the provisions of this Declaration. The foregoing requirements shall not apply to any action brought by the Association to collect assessments



from Members or to obtain injunctive relief in connection with a violation of the provisions of this Declaration, whether or not the Association seeks to recover its costs of suit and attorneys' fees.

In any action instituted or maintained under this Section, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by the court, provided that such party has complied with the applicable provisions of this Section. The costs of such arbitration shall be borne equally by the parties to the arbitration and each party shall bear its own attorneys' fees. Such arbitration shall be heard in Denver, Colorado.

17.4 Notices; Registration of Mailing Address. Each Owner and each First Mortgagee, insurer, or guarantor of a First Mortgage, shall register his mailing address with the Association, and notices or demands intended to be served upon the Association, any such Owner, First Mortgagee, insurer, or guarantor shall be delivered by messenger or sent by first class mail, postage prepaid, addressed to the Association at its address set forth below (or such other address of which it gives notice) or to such other person or entity addressed in the name of such person or entity, at such registered address. However, if any Owner fails to so notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Unit. The address for the Association shall be the address of its registered agent which (until changed in accordance with the Colorado Nonprofit Corporation Act) shall be: 500 Gothic Road, Mt. Crested Butte, Colorado.

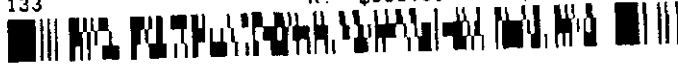
17.5 Agent for Service of Process. If a Unit is owned by more than one (1) person, or by a partnership, joint venture, corporation, limited liability company, or other such entity, the Owners thereof shall designate the Elevation Association, in writing, the name and address of the agent of the Owner to whom all legal or official assessments, liens, levies, or other such notices may be properly and lawfully mailed. Upon failure of an Owner to so designate an agent, the Elevation Association shall be deemed to be the agent for receipt of notices to such Owner(s).

17.6 Non-Waiver. Failure by a Declarant, the Association, any Owner, First Mortgagee, or any other person or entity to enforce any covenant, condition, restriction, easement, reservation, right-of-way, or other provision contained in this Declaration shall in no way or event be deemed to be a waiver of the right to do so thereafter.

17.7 Severability. The provisions of this Declaration shall be deemed to be independent and severable, and the invalidity of any one or more of the provisions hereof, or any portion thereof, by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which other provisions shall remain in full force and effect.

17.8 Number and Gender. Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include all genders.

17.9 Captions. The captions to the Articles and Sections and the Table of Contents at the beginning of this Declaration are inserted herein only as a matter of convenience and for reference, and are in no way to be construed to define, limit or otherwise describe the scope of this Declaration or the intent of any provision hereof.



17.10 Conflicts in Documents. In case of any conflict between this Declaration and the Articles or By-Laws of the Association, this Declaration shall control. In case of any conflict between the Articles and By-Laws of the Association, the Articles of Incorporation shall control.

17.11 Arbitration. Any dispute between the Association and the Declarant, between any Owner and the Declarant, or between the Association and any Owner with respect to a matter other than delinquent assessments, shall be submitted to arbitration in Denver, Colorado, before a panel of three arbitrators, under the supervision, rules and procedures of the American Arbitration Association then in effect, as modified herein. The Association shall comply with the provisions of Section 17.4 above if applicable to the subject matter of the arbitration. Discovery in such arbitration will be conducted in accordance with the Colorado Rules of Civil Procedure, except that all discovery must be completed within one hundred eighty (180) days of the selection of the arbitrators. If the parties to the dispute are unable to agree upon the selection of three arbitrators, then the AAA will select and implement a method of selecting the arbitrators. The decision of the arbitrators in such cases will be final and binding. The party initiating the arbitration shall pay all filing fees and arbitrator fees for the arbitration initially, subject to possible reimbursement if such party is the prevailing party. Upon completion of the arbitration, the cost of the arbitration proceedings, including the reasonable attorney's fees and expenses of the parties, will be paid by the party(ies) which is not or are not the prevailing party(ies) in the arbitration proceedings (in equal shares if there are more than one such non-prevailing parties). In any arbitration hereunder, the arbitrators will determine, in addition to any matters submitted by the parties, which party(ies) is or are the prevailing party(ies). The prevailing party(ies) will be the party(ies) who prevail(s) on substantially more of the matters submitted to arbitration (including, without limitation, claims, defenses, remedies and amount of damages sought) than any of the other parties to the arbitration.

ARTICLE XVIII

DECLARANT RIGHTS

18.1 Declarant's Special Rights. Declarant hereby reserves, for a period of thirty (30) years after the recordation of this Declaration, the development rights and other special Declarant's rights as may be set forth in this Declaration ("Special Declarant Rights"). Such Special Declarant Rights include, but are not limited to, the right to: (i) create and add to the Project Resort and Commercial Units and Common Elements; (ii) combine and subdivide Units or convert Units (or portions thereof) to Common Elements; (iii) convert General Common Elements to Limited Common Elements or Units; (iv) convert Limited Common Elements to General Common Elements or Units; (v) maintain sales and management offices, model Units, and advertising signs within the Elevation Planned Community Project; (vi) use the Common Elements to make improvements to the Common Elements or Units; (vii) appoint Directors and officers of the Association during the Period of Declarant's Control; (viii) convert Common Elements to Units; (ix) withdraw individual Units owned by Declarant from the Elevation Planned Community Project; (x) annex the Employee Units to the Project; and (xi) complete development of the Elevation Planned Community Project. Such Special Declarant Rights affect all of the Property which is subject to this Declaration and may be exercised during the period set forth in this Section 18.1 without the consent or approval of any other Owners or First Mortgagees, provided that any conversion of General or Limited Common Elements to Units does not



materially adversely affect access to any Units or structural support of any Units and that such conversion is reasonably necessary to the exercise of Declarant's rights to convert or reconstruct existing Units owned by Declarant or Declarant's rights to expand the number of Units in the Project. If any Units and/or Common Elements are withdrawn from the Elevation Planned Community Project, a Notice of Withdrawal and an amendment to the Elevation Planned Community Map showing the withdrawn Units and Common Elements shall be recorded in the real property records of the Clerk and Recorder for Gunnison County, Colorado. If the Employee Units are annexed to the Elevation Planned Community Project or additional Units are constructed within the Elevation Planned Community Project, a Notice of Annexation and an amendment to the Elevation Planned Community Map showing the annexed Employee Units or additional Units and Common Elements shall be recorded in the real property records of the Clerk and Recorder for Gunnison County, Colorado. Either such Notice shall be deemed to be a part of this Declaration. Either such Notice shall set forth the reallocation of the Percentage Interests among all of the Units which will be part of the Elevation Planned Community Project after such withdrawal, annexation, or addition and shall refer to this Declaration, including the date and Reception Number for recordation of this Declaration. In the event the Declarant withdraws Units and Common Elements from the Elevation Planned Community Project, annexes the Employee Units, or adds Units, Percentage Interests shall be reallocated within the Resort Units so that each Resort Unit has an equal Percentage Interest within the Resorts Units as a group if one or more Resort Units are withdrawn, annexed or added, and Percentage Interests shall be reallocated within the Commercial Units so that each Commercial Unit has an equal Percentage Interest within the Commercial Units as a group if one or more Commercial Units are withdrawn, annexed or added. The sale or encumbrance of any Common Elements and/or the withdrawal of any Common Elements shall require the consent or approval of the Owners holding at least sixty-seven percent (67%) of the votes in the Association.

18.2 Declarant's Rights Incident to Completion of the Project. Declarant, for itself and its successors and assigns, shall have and hereby retains or is granted a right and easement of ingress and egress over, in, upon, under, and across the Common Elements and Units and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to the completion of the Elevation Planned Community Project, the sale of the Units, the exercise of Special Declarant Rights under Section 18.1 and the exercise of Declarant's development rights; provided, however, that no such rights shall be exercised in such a way as to unreasonably interfere with the occupancy, use, enjoyment, or access by any Owner, his family members, guests or invitees, to or of his Unit or the Common Elements. The rights under this section shall terminate upon conveyance by a Declarant of all Units to Owners other than a Declarant or thirty (30) years after the recording of this Declaration, whichever occurs first.

18.3 Declarant's Rights Incident to Completion of any Warranty Work. Declarant, for itself and its successors and assigns, shall have and hereby retains and is granted a right and easement of ingress and egress over, in, upon, under, and across any Common Elements and any Unit as may be reasonably necessary or incidental to the completion of any work required to be performed under any warranty given by Declarant to an Owner; provided, however, that no such rights shall be exercised in such a way as to unreasonably interfere with the occupancy, use, enjoyment, or access by any Owner, his family members, guests or invitees, to or of his Unit and Declarant shall notify an Owner of the day and approximate time that such work will be performed. The rights under this section shall terminate



upon the expiration of all warranties given by Declarant, if any. The provisions of this Section 18.3 shall not be deemed to create any warranties from the Declarant to any Owner.

18.4 Declarant's Use. Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for a Declarant, its employees, agents, and contractors, to perform such reasonable activities, and to maintain upon portions of the Elevation Planned Community Project, such facilities as a Declarant deems reasonably necessary or incidental to the completion and sale of Units and the exercise of Declarant's development rights, specifically including without limiting the generality of the foregoing, maintaining business offices, storage areas, signs, model units, sales offices, parking areas, construction offices, and short-term rentals. Initially Declarant intends to use one (1) Unit as a model unit and/or sales office; provided, however, that Declarant reserves the right to create additional model Units and/or sales offices and to relocate any sales office, model Unit, or management office to any other Unit then owned by a Declarant. The rights retained by Declarant in this Section shall terminate upon conveyance by a Declarant of all Units to Owners other than a Successor Declarant or thirty (30) years after the recording of this Declaration, whichever occurs first.

18.5 Right to Complete Development of Project. Declarant reserves the right to develop up to three hundred sixty-three (363) Resort Units and fifty (50) Commercial Units within the Elevation Planned Community Project without the necessity of obtaining the consent of any other Owners or Mortgagees unless expressly required in this Declaration. Such right shall be a Special Declarant Right. No provision of this Declaration shall be construed to prevent or limit the rights of Declarant to complete development of the Elevation Planned Community Project or elect not to complete development of any part of the Elevation Planned Community Project; to construct or alter Improvements on any property owned by Declarant; to maintain model Units, offices for construction, Declarant offices, sales purposes, or similar facilities on any property owned by Declarant, or to post signs or do any other act or thing incidental to development, construction office, promotion, marketing, or sales of property within the boundaries of the Elevation Planned Community Project. The Declarant hereby reserves the right to withdraw from the Elevation Planned Community Project or convert to other uses, including conversion to Units and Common Elements, and remodel, demolish, rebuild, and reconstruct portions of the Elevation Planned Community Project owned by the Declarant or appurtenant to Units owned by the Declarant, including the entirety of the Theater Building; provided, however, that the Declarant shall grant access and utility easements and maintain structural support as necessary to serve other Units in the Elevation Planned Community Project.

18.6 Declarant's Rights to Grant and Create Easements. Declarant shall have and hereby reserves the right to grant or create temporary or permanent easements for access, utilities, drainage, water, telecommunications facilities, and other purposes incident to development, use and sale of the Elevation Planned Community Project located in, on, under, over, and across Common Elements.

18.7 Successor Declarant. Declarant may designate as a "Successor Declarant" one or more persons which own, manage or lease one or more Commercial Units or one or more Resort Units by an instrument which is duly executed, notarized and recorded and delegate one or more powers of the Declarant to such Successor Declarant with respect to some or all of the Project. Such instrument shall identify the powers of the Declarant which have been assigned to such Successor Declarant and which portions of the Project the Successor Declarant may exercise such Declarant powers. Upon execution



and delivery of such instrument by Declarant and the Successor Declarant, the person designated as Successor Declarant therein shall accede to the rights and obligations of Declarant under this Declaration delegated to such Successor Declarant as described in such instrument with respect to the portion of the property described in such instrument and all references to Declarant contained herein shall be deemed to refer to such Successor Declarant with respect to such delegated powers and the portion of the Project with respect to which such powers have been delegated.

18.8 Control of Telecommunications and Other Utility Facilities. Declarant shall have the right to own, control, manage and operate all telecommunications, cable, satellite and other utility facilities and equipment within the Elevation Planned Community Project that provide services to the Units and/or Common Elements, including, but not limited to, placement of telecommunications, cable and/or satellite equipment on the roof or other exterior elements of the Building and installation, operation, repair, maintenance, removal and replacement of telephone, cable, satellite, and internet services within the Units and the Common Elements, and may charge Owners for the use thereof. Declarant may own, control, manage and operate such telecommunications, cable, satellite and other utility facilities directly or through licenses, leases, or other agreements with third parties. Declarant may grant easements over, across and upon the Common Elements and the Units for the purpose of installing, operating, maintaining, repairing, removing and replacing any and all such telecommunications, cable, satellite and other utility facilities and equipment. Declarant may assign some or all of its rights under this Section 18.8 to a Successor Declarant or to the Owner of one or more of the Commercial Units.



IN WITNESS WHEREOF, the undersigned, being Declarant herein, has hereunto set its hand and seal this _____ day of November, 2007.

CB CC DEVELOPMENT, LLC, a Florida limited liability company

By: _____
Its: Manager

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The above and foregoing Elevation Planned Community Declaration for Elevation was acknowledged before me this _____ day of November, 2007, by _____, as Manager **CB CC DEVELOPMENT, LLC**, a Florida limited liability company.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

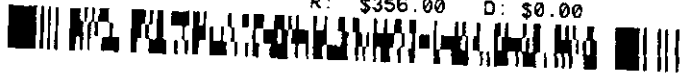


EXHIBIT A
TO
ELEVATION
PLANNED COMMUNITY DECLARATION

PROPERTY DESCRIPTION:

THE PARCEL SITUATE IN THE TOWN OF MT. CRESTED BUTTE, GUNNISON COUNTY, COLORADO, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 27, 1974, OF THE RECORDS OF GUNNISON COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Parcel No. 1:

Lots Emerald and Teocalli, according to the official Plat of the Town of Mt. Crested Butte, Colorado, recorded August 27, 1974, bearing Reception No. 301771 in the office of the County Clerk and Recorder of Gunnison County, Colorado.

Parcel No. 2:

Township 13 South, Range 86 West, 6th P.M.
Section 26: A parcel of land located in said Section 26, more particularly described as follows:

Beginning at Corner No. 1, from whence the East Quarter corner of Section 26, Township 13 South, Range 86 West, 6th P.M., bears South 33°06' East a distance of 1,711.54 feet; thence from said point of beginning North 29°40' East 150 feet to Corner No. 2; thence North 60°20' West 100 feet to Corner No. 3; thence North 29°40' West 285 feet to Corner No. 4; thence South 60°20' East 100 feet to Corner No. 5; thence North 29°40' East 135 feet to Corner No. 1, the point of beginning.

EXCEPTING THEREFROM all of that portion of the above-described property lying within what was Lodge Site No. 15 according to the original Plat of Lodge Sites Area and what is now platted as a portion of Lot Teocalli according to the official Plat of the Town of Mt. Crested Butte of record in the office of the Gunnison County Clerk and Recorder.



Parcel No. 3:

Township 13 South, Range 86 West, 6th P.M.

Section 26: A tract of land located in the NE1/4 of said Section 26, more particularly described as follows:

Beginning at the point of intersection of the South line of Lodge Site No. 15, Lodge Sites Area, according to the recorded plat thereof, with the tract of land conveyed by Deed of Trust recorded in Book 378 at Page 41, in the Gunnison County records; thence S 29°40' West a distance of 41 feet, more or less, to the Southwesterly corner of said tract conveyed in said Deed of Trust, thence S60°20' East along said tract conveyed in said Deed of Trust a distance of 67.81 feet; thence S42°26' West a distance of 180.87 feet, more or less, to the Northerly right-of-way line of Snowmass Road; thence N 47°34' West along said right-of-way line a distance of 114.15 feet more or less to the Easterly line of Crested Butte-Gothic County Road; thence Northerly along said right-of-way line a distance of 115.79 feet, more or less, to the Southerly line extended of said Lodge Site no. 15; thence N 79°55' East a distance of 121.77 feet, more or less, along the Southerly line and Southerly line extended of said Lodge Site No. 15, to the Point of Beginning.

Parcel No. 4:

A tract of land being part of Lot Axtell of the Town of Mt. Crested Butte, being described as follows:

Beginning at the most Northeasterly corner (marked by a ½-inch rebar monument with a surveyor's cap marked Merrick & Co.) of a parcel of land described in Book 391 at Page 390 of the records of Gunnison County, Colorado, said beginning point also being the most Northwesterly corner of said Lot Axtell; thence South 29°40' West 101.95 feet along the Southeasterly boundary of the above said parcel; thence South 61°01'25" East 74.06 feet; thence on a curve to the right 106.02 feet; said curve having a radius of 110.0 feet and a chord which bears North 21°59'29" East 101.97 feet to a point on the Southerly boundary of Crested Butte Way; thence along said boundary North 60°20' West 60.44 feet to the point of beginning.

Directions are based on a bearing of North 89°38' East between Government brass-capped pipe monuments located at the North ¼ Corner of the Northeast Corner of Section 26, Township 13 South, Range 86 West, 6th P.M.



Parcel No. 5:

A non-exclusive access easement area located across Lot Axtell of the Town of Mt. Crested Butte, County of Gunnison, State of Colorado, and being described as follows:

Beginning at the most Southerly corner of said Lot Axtell as shown on the Plat of Mt. Crested Butte filed August 27, 1974, bearing Reception No. 301771 of the records of Gunnison County, Colorado; thence proceeding around the easement area herein described; North 47°34' West along the Northerly boundary of Snowmass Road 50.0 feet; thence North 42°26' East along a Westerly boundary of said Lot Axtell 178.94 feet; thence South 60°20' East continuing along a boundary of said Lot Axtell 32.98 feet to a Lot corner; thence South 30°34'04" West leaving said Lot corner 86.74 feet to a curve point on the Southerly boundary of said Lot Axtell; thence South 42°26' West along said Southerly boundary 101.34 feet to the point of beginning.

All in the Town of Mt. Crested Butte, County of Gunnison, State of Colorado.



EXHIBIT B
TO
ELEVATION
PLANNED COMMUNITY DECLARATION

Commercial Units:

Unit Number	Square Footage	Percentage of Total Commercial Unit Space
C-P101	10,106.00	7.0228%
C-P102	10,165.00	7.0638%
C-ML01	7,240.21	5.0313%
C-ML06	16,838.02	11.7010%
C-ML07	3,963.45	2.7543%
C-ML08	15,050.58	10.4589%
C-ML09	9,435.91	6.5572%
C-P202	3,130.80	2.1756%
C-P204	20,139.32	13.9951%
C-P205	9,921.03	6.8943%
C-P206	3,168.23	2.2017%
C-101	6,285.89	4.3682%
C-102	10,505.40	7.3004%
C-103	6,016.36	4.1809%
C-104	606.63	0.4216%
C-201	1,320.31	0.9175%
C-202	2,343.80	1.6287%
C-203	6,877.47	4.7793%
C-204	788.06	0.5476%
TOTAL:	143,902.47	100.0000%

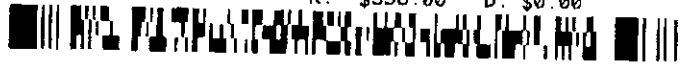
Resort Units:

Unit Number	Square Footage	Percentage of Total Resort Unit Space
101	809	0.5563%
102	809	0.5563%
103	838	0.5762%
104	838	0.5762%
105	486	0.3342%
106	486	0.3342%
107	486	0.3342%
108	486	0.3342%
109	486	0.3342%
110	486	0.3342%
111	486	0.3342%
112	486	0.3342%
113	486	0.3342%
114	486	0.3342%
115	486	0.3342%
116	891	0.6127%
117	486	0.3342%
118	486	0.3342%
201	809	0.5563%
202	809	0.5563%
203	838	0.5762%
204	838	0.5762%
205	486	0.3342%
206	486	0.3342%
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212	486	0.3342%
213	486	0.3342%
214	486	0.3342%
215	486	0.3342%
216	891	0.6127%
217	486	0.3342%
218	486	0.3342%
249	486	0.3342%

B-2

250	486	0.3342%
251	486	0.3342%
252	486	0.3342%
253	486	0.3342%
254	486	0.3342%
255	486	0.3342%
256	838	0.5762%
257	838	0.5762%
258	809	0.5563%
259	809	0.5563%
301	809	0.5563%
302	809	0.5563%
303	838	0.5762%
304	838	0.5762%
305	486	0.3342%
306	486	0.3342%
307	486	0.3342%
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314	486	0.3342%
315	486	0.3342%
316	891	0.6127%
317	486	0.3342%
318	486	0.3342%
319	481	0.3307%
320	456	0.3135%
321	486	0.3342%
322	455	0.3129%
323	486	0.3342%
324	455	0.3129%
325	486	0.3342%
326	455	0.3129%
327	486	0.3342%
328	445	0.3060%
329	475	0.3266%
330	795	0.5466%
331	533	0.3665%
332	445	0.3060%

333	486	0.3342%
334	455	0.3129%
335	486	0.3342%
336	455	0.3129%
337	486	0.3342%
338	455	0.3129%
339	481	0.3307%
340	456	0.3135%
341	899	0.6182%
342	843	0.5796%
343	486	0.3342%
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356	838	0.5762%
357	838	0.5762%
358	809	0.5563%
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401	809	0.5563%
402	809	0.5563%
403	838	0.5762%
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405	486	0.3342%
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414	486	0.3342%
415	486	0.3342%



416	891	0.6127%
417	486	0.3342%
418	486	0.3342%
419	481	0.3307%
420	456	0.3135%
421	486	0.3342%
422	455	0.3129%
423	486	0.3342%
424	455	0.3129%
425	486	0.3342%
426	455	0.3129%
427	486	0.3342%
428	445	0.3060%
429	475	0.3266%
430	795	0.5466%
431	533	0.3665%
432	445	0.3060%
433	486	0.3342%
434	455	0.3129%
435	486	0.3342%
436	455	0.3129%
437	486	0.3342%
438	455	0.3129%
439	481	0.3307%
440	456	0.3135%
441	899	0.6182%
442	843	0.5796%
443	486	0.3342%
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454	486	0.3342%
455	486	0.3342%
456	838	0.5762%
457	838	0.5762%
458	809	0.5563%



459	809	0.5563%
501	843	0.5796%
502	843	0.5796%
503	887	0.6099%
504	887	0.6099%
505	486	0.3342%
506	486	0.3342%
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514	486	0.3342%
515	486	0.3342%
516	891	0.6127%
517	486	0.3342%
518	486	0.3342%
519	481	0.3307%
520	456	0.3135%
521	486	0.3342%
522	455	0.3129%
523	486	0.3342%
524	455	0.3129%
525	486	0.3342%
526	455	0.3129%
527	486	0.3342%
528	445	0.3060%
529	475	0.3266%
530	795	0.5466%
531	533	0.3665%
532	445	0.3060%
533	486	0.3342%
534	455	0.3129%
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537	486	0.3342%
538	455	0.3129%
539	481	0.3307%
540	456	0.3135%
541	899	0.6182%



542	843	0.5796%
543	486	0.3342%
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553	486	0.3342%
554	486	0.3342%
555	486	0.3342%
556	887	0.6099%
557	887	0.6099%
558	1686	1.1593%
617	486	0.3342%
618	486	0.3342%
619	481	0.3307%
620	456	0.3135%
621	486	0.3342%
622	455	0.3129%
623	486	0.3342%
624	455	0.3129%
625	486	0.3342%
626	455	0.3129%
627	486	0.3342%
628	445	0.3060%
629	475	0.3266%
630	795	0.5466%
631	533	0.3665%
632	445	0.3060%
633	486	0.3342%
634	455	0.3129%
635	486	0.3342%
636	455	0.3129%
637	486	0.3342%
638	455	0.3129%
639	481	0.3307%
640	456	0.3135%
641	899	0.6182%



642	843	0.5796%
643	486	0.3342%
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655	486	0.3342%
	145,4224	100.0000%



EXHIBIT C
TO
ELEVATION
PLANNED COMMUNITY DECLARATION

Capital Cost/Reserves Allocation:

<u>Type of Improvement</u>	<u>Commercial Share</u>	<u>Resort Units Share</u>
Roofs and related building elements		
a. Elevation Building roof	<u>20%</u>	<u>80%</u>
b. Theatre Building and connector [Commercial Unit C-ML01]	<u>100%</u>	<u>0%</u>
2. Parking Areas	<u>10%</u>	<u>90%</u>
3. Locker Areas [General Common Elements	<u>0%</u>	<u>100%</u>
4. Exterior of Elevation and Theater Buildings		
a. Exterior paint and stucco, lighting	<u>20%</u>	<u>80%</u>
b. Signage	<u>20%</u>	<u>80%</u>
5. Elevators and stairwells		
Elevators in Elevation Building	<u>10%</u>	<u>90%</u>
Elevators in Theatre Building	<u>100%</u>	<u>0%</u>
6. Building Mechanical Systems	<u>20%</u>	<u>80%</u>
7. Structural Elements of Elevation Building	<u>20%</u>	<u>80%</u>
8. Structural Elements of Theatre Building	<u>100%</u>	<u>0%</u>
9. Spa, Salon, Meeting Space, Business Center	<u>80%</u>	<u>20%</u>
10. Any Elevation Building item not listed above	<u>20%</u>	<u>80%</u>



Operating Expenses Allocation:

<u>Type of Improvement</u>	<u>Commercial Share</u>	<u>Resort Units Share</u>
On-site management and maintenance personnel and equipment	<u>20%</u>	<u>80%</u>
Front desk/Security/Transportation/Bell	<u>10%</u>	<u>90%</u>
General maintenance	<u>20%</u>	<u>80%</u>
Repairs/maintenance – Parking	<u>10%</u>	<u>90%</u>
Pool and Hot Tub Chemicals	<u>20%</u>	<u>80%</u>
Maintenance tools and equipment	<u>20%</u>	<u>80%</u>
Music - lobby	<u>10%</u>	<u>90%</u>
Elevator maintenance – Elevation Building	<u>10%</u>	<u>90%</u>
Elevator maintenance – Theatre Building	<u>10%</u>	<u>90%</u>
Utilities (if not separately metered):		
Electricity	<u>20%</u>	<u>80%</u>
Natural gas - GCE	<u>20%</u>	<u>80%</u>
Satellite TV – Lobby	<u>10%</u>	<u>90%</u>
Water and Sewer	<u>20%</u>	<u>80%</u>
Telephone/Internet	<u>20%</u>	<u>80%</u>
Trash removal	<u>20%</u>	<u>80%</u>
Fire/Life Safety	<u>20%</u>	<u>80%</u>
Property and Casualty Insurance (if single policy issued for building and other improvements, general liability, and umbrella)	<u>20%</u>	<u>80%</u>

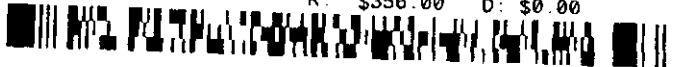


EXHIBIT D
TO
ELEVATION
PLANNED COMMUNITY DECLARATION

Recorded Easements:

1. Taxes and assessments which are a lien not yet due and payable; any unredeemed tax sales; any tax, special assessment, charge, or lien imposed for water or sewer service; any tax, special assessment, charge, or lien imposed for or by any special taxing district or on account of the inclusion of the subject property in one or more improvement districts.
2. Unpatented mining claims, reservations or exceptions in patents, or an act authorizing the issuance thereof; water rights claims or title to water.
3. Reservations or exceptions, or an act authorizing the issuance thereof, as created by United States Patent recorded May 26, 1906, in Book 101 at Page 373.
4. Any tax, assessments, fees, or charges by reason of inclusion of the subject property within the Crested Butte Water and Sanitation District.
5. Bridge-Pedestrian easement over and across the northwest portion of Lot Teocalli and pier for bridge as shown on the Plat recorded January 16, 1976 bearing Reception No. 309415.
6. Grant of Easement recorded November 27, 1985 in Book 624 at Page 166.
7. Grant of Easement recorded November 27, 1985 in Book 624 at Page 161, and Easement recorded December 30, 1986 in Book 637 at Page 715, and any and all assignments thereof or interests therein.
8. Grant of Utilities Easement recorded September 6, 1988 in Book 657 at Page 938.
9. Notice of Abstract of Lease recorded March 6, 2000, bearing Reception No. 500100.
10. Grant of Easement recorded April 7, 2000, bearing Reception No. 500900.
11. Grant of Utilities Easement recorded April 7, 2000, bearing Reception No. 500901.