

DECLARATION OF CONDOMINIUM**FOR****DOUBLE DIAMOND CONDOMINIUM**

This Declaration of Condominium is made and entered into by Coonskin Partners, L.L.C., a Colorado limited liability company with an address of Post Office Box 1530, 204 West Colorado Avenue, Upstairs, Telluride, Colorado 81435, (the "Declarant") on this 18th day of December, 1996.

RECITALS:

WHEREAS, Declarant is the owner of real property in San Miguel County, Colorado, more particularly described as:

Lot H, Backman Village Subdivision, Amended Plat No. 1, recorded in the Office of the Clerk and Recorder in Plat Book 1 at Page 328, together with a 10.00 foot pedestrian easement appurtenant to Lot H which runs over, across and along a portion of Lot K in said subdivision which abuts the northerly most line of Lot H, inuring to the benefit of Lot H, according to the Plat recorded in the Office of the Clerk and Recorder in Plat Book 1 at Page 328, San Miguel County, Colorado (the "Property"),

which Property is subject to certain easements and licenses as described on Exhibit A attached hereto; and

WHEREAS, Declarant has completed construction on the Property of certain improvements and desires to create a Condominium Common Interest Community thereon in the name of Double Diamond Condominium; and

WHEREAS, Declarant has caused to be incorporated under the laws of the State of Colorado, Double Diamond Condominium Association, Inc., a nonprofit corporation, for the purpose of exercising the functions as herein set forth.

ARTICLE I**SUBMISSION; DEFINITIONS**

1.1 Submission of Property. Declarant hereby declares that all of the Property shall be a condominium, to be held or sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, legal representatives, successors and assigns and shall inure to the benefit of each owner thereof. Declarant hereby submits the Property to the provisions of the Colorado Common Interest Ownership Act, Sections 38-33.3-101, et seq., Colorado Revised Statutes, as same may be amended from time to time (the "Act"). In the event the Act is repealed, the Act, on the effective date of this Declaration, shall remain applicable.

1.2 Definitions. As used in this Declaration, unless the context otherwise requires, the terms set forth herein shall have the following meanings. Any term not defined herein or in the plat or map shall have the meaning specified in the Act:

(a) **Articles.** "Articles" shall mean the Articles of Incorporation of the Association as the same may be amended from time to time.

(b) **Association.** "Association" shall mean and refer to Double Diamond Condominium Association, Inc., a Colorado nonprofit corporation, its successors and assigns.

(c) **Building.** "Building" means the building located on the Property which building shall contain the units as shown on the condominium map. The Building consists of a single building containing, on the date of execution hereof, a total of twenty-six residential units.

(d) **Bylaws.** "Bylaws" shall mean the Bylaws of the Association as same may be amended from time to time.

(e) **Common Elements.** "Common Elements" means all portions of the Property except the Units, but including the Limited Common Elements. Such Common Elements shall include, but shall not be limited to, the land, foundation, structural components of the Building, hallways, stairways, entrances, exits, parking areas, storage areas, basement, roof, public utility lines, perimeter and partition walls, floors, ceilings, chutes, flues, ducts, conduits, wires, bearing walls, bearing columns, outside walks, driveways, courtyard, landscaping and easements.

(f) **Common Expense Assessments.** "Common Expense Assessments" shall mean the sums assessed against owners for the payment of common expenses including, in supplementation to the definition of Common Expense Assessments included in the Act, late charges, attorneys' fees, fines and interest charged by the Association.

(g) **Common Expenses.** "Common Expenses" shall mean those items of expense or liability incurred by the Association, together with any allocations to reserves.

(h) **Condominium Map.** "Condominium Map" or "Map" shall mean the map for the Double Diamond Condominium appearing in the records of the office of the Clerk and Recorder of San Miguel County, Colorado, as same may be amended or supplemented. The Map is incorporated herein by reference, as same was recorded on DECEMBER 19, 1996 at 11:12 A.M. IN BOOK PL#1 PAGES 2168-2172

(i) **Condominium Unit.** "Condominium Unit" shall mean a Unit, as defined below, together with an undivided interest in the Common Elements appurtenant to that Unit.

(j) **Declarant.** "Declarant" shall mean Coonskin Partners, L.L.C., a Colorado limited liability company and such successor or successors as may be designated by the Declarant.

(k) **Declaration.** "Declaration" shall mean this Declaration together with any supplement or amendment hereto recorded in the office of the Clerk and Recorder for San Miguel County, Colorado.

(l) **Executive Board.** "Executive Board" or "Board" shall mean the governing body of the Association.

(m) **Limited Common Elements.** "Limited Common Elements" means any portion of the Common Elements designated in this Declaration or the Map as being reserved for the use of a certain Unit or Units to the exclusion of other Units.

(n) **Managing Agent.** "Managing Agent" or "Manager" shall mean the person, if any, declared by the Executive Board to perform the management and operational functions of the Association, which person must be a licensed Colorado real estate broker.

(o) **Mortgage.** "Mortgage" shall mean any mortgage, deed of trust or other security instrument by which a Condominium Unit or any part thereof is encumbered.

(p) **Mortgagee.** "Mortgagee" shall mean any person named as the mortgagee or beneficiary under any Mortgage or any successor to the interest of such person under such Mortgage.

(q) **Owner.** "Owner" shall mean the person or persons owning a Condominium Unit in fee simple, including the Declarant. The term Owner shall not refer to any Mortgagee as herein defined unless such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(r) **Project.** "Project" shall mean the Property including the Building located thereon. There are no recreational facilities planned for the Project.

(s) **Property.** "Property" shall mean that certain parcel of real property located in San Miguel County, Colorado described on page 1 hereof.

(t) **Unit.** "Unit" means a physical part of the Property, as set forth on the Condominium Map, designed and intended for separate ownership or occupancy as a residence or for such other incidental uses as permitted by this Declaration. Each Unit shall consist of all airspace, fixtures and improvements enclosed within the Unit boundaries identified in Section 3.2 below.

ARTICLE II

NAME; DESCRIPTION OF REAL ESTATE

2.1 Name. The name of the condominium community created herein is Double Diamond Condominium.

2.2 Association. The name of the Association is Double Diamond Condominium Association, Inc.

2.3 Real Estate. The Condominium is located within San Miguel County, in the State of Colorado. The real estate of the Condominium is described as:

Lot H, Backman Village Subdivision, Amended Plat No. 1, recorded in the Office of the Clerk and Recorder in Plat Book 1 at Page 328, together with a 10.00 foot pedestrian easement appurtenant to Lot H which runs over, across and along a portion of Lot K in said subdivision which abuts the northerly most line of Lot H, inuring to the benefit of Lot H, according to the Plat recorded in the Office of the Clerk and Recorder in Plat Book 1 at Page 328, San Miguel County, Colorado.

ARTICLE III

UNITS

3.1 Division into Units. Declarant, by this Declaration, has submitted the Property to condominium ownership pursuant to the Colorado Common Interest Ownership Act. The Property is hereby divided into twenty-six Condominium Units as shown on the Map. Declarant reserves the right, for itself and for its successors and assigns, to relocate boundaries between adjoining Units, enlarge Units, reduce or diminish the size of Units and subdivide the Units as set forth in Article VIII hereinbelow, subject to the requirements of applicable zoning ordinances and regulations. In no event shall Declarant create Units exceeding the maximum number of Units allowed by any governmental entity having jurisdiction.

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

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

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

(c) **Vertical Perimeter Boundaries.** The planes defined by the unfinished inner surface of the perimeter stud wall or the unfinished inner surface of the concrete wall, whichever applies, and the interior surface of closed exterior windows and doors and the vertical planes indicated by lines as shown on the Condominium Map.

(d) **Inclusions.** Each Unit includes the spaces and improvements lying within the boundaries described above, as depicted on the Condominium Map. Each Unit shall also include, when installed, such items as, but not limited to, water heating facilities, all electrical switches, wiring, pipes, ducts, conduits, smoke detector or security systems and communications, television, telephone and electrical receptacles and boxes serving that Unit exclusively.

(e) **Exclusions.** Except when specifically included by other portions of this Declaration or by the Condominium Map, the following are excluded from each Unit; the spaces and improvements lying outside the boundaries described above, air conditioners and heating systems, thresholds, exterior lighting and all chutes, pipes, flues, ducts, wires, conduits, skylights and other facilities running through or within any interior wall or partition for the purpose of furnishing utility and other service to other Units and the Common Elements.

3.3 Identification of Units. The identification number of each Unit is shown on the Map and on Exhibit B to this Declaration. A Condominium Unit shall be deemed adequately and properly described if its identifying number is stated, followed by words similar to the following:

Double Diamond Condominium, in accordance with the Declaration and Condominium Map therefor, filed of record in the Public Records of San Miguel County, Colorado.

3.4 Subdivision of Condominium Units. Upon approval by the Executive Board, a Unit may be subdivided into two or more Units, if the Owner of the Unit to be subdivided shall submit to the Executive Board such application as shall be reasonably required by the Board and by applicable law, and such subdivision does not violate applicable zoning or other laws or ordinances.

3.5 Membership in Association. The Owners of record of each Unit shall be members of the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Unit.

ARTICLE IV

THE ASSOCIATION

4.1 Authority. The business affairs of the Project shall be managed by the Association, a Colorado nonprofit corporation, in such manner as shall further the interests of the Owners of the Units. The Association shall be governed by this Declaration, its Articles of Incorporation and Bylaws and any rules and regulations promulgated thereunder, as same may be amended from time to time.

4.2 Powers. The Association through its Executive Board, shall have all of the powers, authority and duties outlined in its Articles and permitted pursuant to the Act necessary and proper to manage the Project's business and affairs. In addition, the Association shall have the power to assign any future income, including the right to receive assessments from the Owners, with the affirmative vote of the Owners of Units to which at least sixty-seven (67%) percent of the votes in the Association are allocated, at a meeting called for that purpose. Funds allocated to a reserve account, however, or to pay known expenses shall not be assigned by the Association.

4.3 Membership/Voting. Every Owner of a Unit at Double Diamond Condominium shall be entitled and required to be a member of the Association. Only one party may vote per Condominium Unit. If title to a Unit is held by more than one person, those persons shall agree among themselves how a vote for that Condominium Unit is to be cast. There shall be no fractional votes. Voting shall be otherwise as stated in the Articles, the Bylaws and the Act. A membership in the Association may not be transferred except in connection with the transfer of a Condominium Unit.

4.4 Executive Board. The affairs of the Association shall be managed by an Executive Board. There shall not be less than three (3) members of the Board, the specific number of which shall be set forth from time to time in the Bylaws. The Declarant shall have special rights to appoint members to the Executive Board as stated in the Articles, the Bylaws and the Act.

4.5 Attorney-in-Fact. The Association is hereby irrevocably appointed attorney-in-fact for the Owners and each of them to manage, control and deal with the interest of each 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. The acceptance by any person of an interest in a Unit shall constitute an appointment of the Association as attorney-in-fact as provided herein. This provision shall not, however, permit the Association to act on behalf of the Owners to amend the Declaration, terminate the condominium or elect members to the Executive Board.

4.6 Review of Records. Any Owner or holder of a Mortgage secured by a Unit may inspect the Association's records of receipts and expenditures at any reasonable time during weekday business hours.

4.7 Rules and Regulations. The Association, by majority vote of the Board, may make reasonable rules and regulations governing the use of the Units and Common Elements, which rules and regulations shall be consistent with the rights and duties established in this Declaration.

4.8 Association Agreements. Any agreement for professional management of the Project or any contract providing for services of the Declarant, may not exceed one year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee or penalty upon thirty (30) days' written notice; provided, however, the Association shall not be bound either directly or indirectly to contracts or leases (including management contracts) entered into during the Declarant Control period (as said term is defined below), unless the Association is provided with a right of termination of any such contract or lease without cause, which is exercisable without penalty at any time after the Turnover Date (as said term is defined below) upon not more than thirty (30) days' notice to the other party thereto.

4.9 Declarant Control.

(a) The Declarant shall have the reserved power, pursuant to Section 305(5) of the Act, to appoint and remove officers and members of the Executive Board. This power of Declarant (the period of Declarant Control) terminates no later than the earlier of: (i) sixty (60) days after conveyance of seventy-five percent (75%) of all Condominium Units in the ordinary course of business to Owners other than the Declarant; (ii) two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business to an Owner other than Declarant; (iii) two (2) years after the right to add new Condominium Units was last exercised; or (iv) five (5) years after the first Unit is conveyed to an Owner other than the Declarant ("Turnover Date").

(b) During the period of Declarant Control, the Declarant's control shall be subject to the following limitations:

(i) Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Condominium Units that may be created to Owners other than the Declarant or its successor, at least one (1) member and not less than twenty-five percent (25%) of the members of the Executive Board must be elected by Owners other than the Declarant.

(ii) Not later than sixty (60) days after conveyance of fifty percent (50%) of the Condominium Units that may be created to Owners other than the Declarant or its successor, not less than thirty-three and one-third (33 1/3%) percent of the members of the Executive Board must be elected by Owners other than the Declarant.

(c) The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the period of Declarant Control, but, in that event, the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

4.10 Enforcement by Association/Remedies. In the event that any Owner fails to comply in all respects with the terms of this Declaration, the Bylaws, the Articles or any rules and regulations promulgated by the Executive Board, then the Association shall have the following rights and remedies in addition to those rights and remedies set forth in the Bylaws and the Act:

(a) Should any Owner fail to pay any assessment when due, then the Association shall have the lien and collection rights provided in Article V of this Declaration.

(b) During any period of noncompliance by any Owner with the terms of this Declaration, the Bylaws, Articles or rules and regulations, the Board may suspend such defaulting Owner's voting rights in the Association and such Owner's rights to use the Common Elements.

(c) The Association, after providing thirty (30) days' notice of noncompliance to any defaulting Owner, shall have the right to perform such Owner's repair and maintenance obligations under this Declaration, the Bylaws and/or the rules and regulations. Such performance by the Association shall be at the Owner's expense. Such expense may be collected by Common Assessment pursuant to Article V hereof.

(d) The Association may obtain a temporary restraining order, injunctive relief, specific performance or any other equitable remedy against any defaulting Owner. In addition, the Association, by resolution of the Executive Board and after notice and a hearing, may impose a fine not to exceed \$100.00 per day against any defaulting Owner, for each day that violation of the covenants of this Declaration or of the Bylaws, Articles or rules and regulations exists. Such fines shall be assessed against the Unit of the defaulting Owner pursuant to the terms of Article V hereof.

(e) The Association's good faith judgment shall be conclusive as to whether the Owner shall have failed to comply with any provisions of this Declaration, the rules and regulations and Bylaws.

(f) Any suits against a defaulting Owner may be maintained not only by the Association, but also by the Managing Agent, the Executive Board or any aggrieved Owner.

(g) Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies herein set forth, may be abated or enjoined by any Owner, the Association, any member of the Executive Board or the Managing Agent of the Association.

(h) All expenses of the prevailing party incurred in connection with any action or proceeding brought under the terms of this Declaration, including court costs and attorneys' fees, shall be paid by the nonprevailing party. Should the Association prevail in any such action, the amount of said attorneys' fees, costs and expenses may be assessed against the Unit of the defaulting Owner, pursuant to the terms of Article V hereof.

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

4.12 Notice to Owners. Written notice of Association meetings or other matters affecting the Property or the Owners shall be given to Owners by the Association. Such notice shall be submitted by the Secretary of the Association, (or by such other officer as is specified in the Association's Bylaws), and shall be hand-delivered or sent prepaid by United States mail to the mailing address of each Condominium Unit or to the mailing address designated in writing by the Owner, not less than ten (10) nor more than sixty (60) days in advance of any such meeting. No action shall be adopted at an Association meeting except as stated in the notice.

4.13 Indemnification. To the full extent permitted by law, each officer and member of the Executive Board of the Association shall be and are hereby indemnified by the Owners and the Association against all expenses and liabilities including attorneys' fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer or member of the Executive Board of the Association, or any settlements thereof, whether or not they are an officer or member of the Executive Board of the Association at the time such expenses are incurred; except in such cases wherein such officer or member of the Executive board is adjudged guilty of willful misfeasance or willful malfeasance in the performance of his duties; provided that in the event of a settlement this indemnification shall apply only when the Executive Board approves such settlement and reimbursement as being in the best interests of the Association.

ARTICLE V

COVENANT FOR COMMON EXPENSE ASSESSMENTS

5.1 Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments. Declarant, for each Unit, shall be deemed to covenant and agree, and each Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association annual Common Expense Assessments. Such Assessments, including fees, charges, late charges, attorney fees, fines and interest charged by the Association shall be the personal obligation of the Owner at the time when the Assessment or other charges became or fell due. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them. No Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Elements or by abandonment of the Condominium Unit against which the Common Expense Assessments are made. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason including, without limitation, any claim that the Association or the Executive Board is not properly exercising its duties and powers under this Declaration.

The Common Expense Assessments of the Association shall be a charge against, and a continuing lien upon the Condominium Unit against which each such Assessment is made. A lien under this section is prior to all other liens and encumbrances against a Condominium Unit except: (1) liens and encumbrances recorded before the recordation of this Declaration; (2) a first Mortgage on the Condominium Unit recorded before the date on which the Common Expense Assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Condominium Unit. This section does not prohibit an action to recover sums for which this section creates a lien nor does it prohibit the Association from taking a

deed in lieu of foreclosure. Sale or transfer of any Condominium Unit shall not affect the Association's lien except that sale or transfer of any Condominium Unit pursuant to foreclosure of any first Mortgage, or any proceeding in lieu thereof, including receipt of a deed in lieu of foreclosure, shall only extinguish the Association's lien as provided in the Act. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including receipt of a deed in lieu of foreclosure, shall relieve any Condominium Unit from continuing liability for any Common Expense Assessments thereafter becoming due, nor from the lien thereof.

5.2 Apportionment of Common Expenses. Common Expenses shall be assessed against all Condominium Units in accordance with their percentage interest in the Common Expenses as shown on Exhibit B to this Declaration.

5.3 Purpose of Assessments. The assessment levied by the Association through its Executive Board shall be used for the purposes of maintaining the Common Elements, providing required insurance, enforcing the provisions of this Declaration, the Bylaws and the rules and regulations, providing utility services to the Common Elements, establishing a reserve fund for the replacement, repair and maintenance of the Common Elements and otherwise promoting the health, safety and welfare of the residents in Double Diamond Condominium.

5.4 Annual Assessment/Commencement of Common Expense Assessments. The Common Expense Assessment shall be made on an annual basis against all Condominium Units and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such assessment year. Common Expense Assessments may be collected in the manner as determined by the Executive Board. Common Expense Assessments may begin on the first day of the month in which conveyance of the first Condominium Unit to an Owner other than the Declarant occurs. The omission or failure of the Executive Board to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

5.5 Effect of Non-Payment of Assessments. Any assessment, charge, fine, attorneys' fee or other charge or expense provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within ten (10) days after the due date thereof shall bear interest at the rate as determined from time to time by the Executive Board, and the Association may assess a reasonable late charge thereon, as determined by the Executive Board. Failure to make payment within sixty days of the due date thereof shall cause, at the option of the Association, the entire Common Expense Assessment for that calendar year to become immediately due and payable. Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Condominium Unit. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefor.

Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or to otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent assessment, charges or fees, or monthly or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Condominium 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. If a foreclosure action is filed to foreclose any Assessment lien, and an Owner abandons or leaves vacant his or her Condominium Unit, the Board may take possession and rent said Condominium Unit or apply for the appointment of a receiver for the Condominium Unit without prior notice to the Owner. The rights of the Association shall be expressly subordinate to the rights of any holder of a first Mortgage as set forth in its deed of trust or mortgage (including any assignment of rents), to the extent permitted under the Act.

5.6 Working Fund. The Association or Declarant shall require the first Owner of each Condominium Unit (other than Declarant) to make a non-refundable payment to the Association in an amount equal to one-fourth of the annual Common Expense Assessment against that Unit in effect at the closing thereof, which sum shall be held, without interest, by the Association as a working fund. Said working fund shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Condominium Unit, as aforesaid, and shall be maintained for the use and benefit of the Association. Such payment shall not relieve an Owner from making regular payments of assessments as the same become due. Upon the transfer of his Condominium Unit, an Owner shall be entitled to a credit from his transferee for any unused portion of the aforesaid working fund. This account may be updated annually as of December 31st, and notice shall be given to all Owners whose individual account does not equal one-fourth (1/4th) of the current annual assessment. Payment of any shortage shall be due, at the request of the Executive Board, with the next regular assessment payment, following written notice.

5.7 Common Expenses Attributable to Fewer than All Units.

(a) Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element may be assessed, prorata, against those Condominium Units benefiting from such Limited Common Element.

(b) Any Common Expense for services provided by the Condominium Association to an individual Condominium Unit at the request of the Owner may be assessed against that Condominium Unit.

(c) Any insurance premium increase attributable to a particular Condominium Unit by virtue of activities in or construction of that Condominium Unit shall be assessed against that Condominium Unit.

(d) An assessment to pay a judgment against the Association may be made only against the Condominium Units in the Project at the time the judgment was entered, in proportion to their Common Expense liabilities.

(e) If a Common Expense is caused by the misconduct of an Owner, the Association shall assess that expense exclusively against that Owner's Condominium Unit.

(f) Fees, charges, taxes, impositions, late charges, fines, collection costs and interest charged against an Owner pursuant to this Section are enforceable as Common Expense assessments.

ARTICLE VI

COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

6.1 Common Elements. The Common Elements are defined in Article I, Section 1.2(e) hereof. The Declarant reserves, for a period of five (5) years after the recording of this Declaration, the right to designate parts of the Common Elements as Limited Common Elements for the exclusive use of some, but not all, of the Condominium Units. The Declarant may allocate or assign Common Elements as Limited Common Elements (i) by making such an allocation in a recorded instrument, or (ii) in the deed to the Condominium Unit to which such Limited Common Element shall be appurtenant, or (iii) by recording an appropriate amendment or supplement to this Declaration, or (iv) by recording a supplement to the Condominium Map, or (v) by recording the allocation or assignment in the minutes or records of the Association. Such allocations by the Declarant may be made as a matter of reserved right by the Declarant and may be made to Condominium Units owned by the Declarant.

6.2 Limited Common Elements. (a) A Limited Common Element means a portion of the Common Elements, designated in this Declaration, or on the Map, or by the Act, for the exclusive use of one or more but fewer than all of the Condominium Units. The following portions of the Property in addition to the portions described in the Act, are designated as Limited Common Elements:

(a) balconies and/or decks appurtenant to Units 1 through 7, 9 through 14, and 16 through 25 as shown on the Map, for the benefit and exclusive use of the Unit through which such balcony or deck is accessed.

6.3 Allocation of Specified Common Elements. Subject to the prohibitions of applicable law, the Executive Board may designate parts of the Common Elements from time to time for use by less than all of the Owners or by nonowners for specified periods of time or by only those persons paying fees or satisfying other reasonable conditions for use as may be established by the Executive Board. Any such designation by the Executive Board shall not be a sale or disposition of such portions of the Common Elements.

6.4 Expense Allocation. Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element may be assessed against the Condominium Unit or Units to which the Limited Common Element is assigned.

6.5 Unit Owners' Easements of Enjoyment. Every Unit Owner shall have a right and easement of enjoyment in and to any Common Elements and such easement shall be appurtenant to and shall pass with the title to every Condominium Unit, subject to the following provisions:

(a) The right of the Association to promulgate and publish rules and regulations which each Owner and their guests shall strictly comply with.

(b) The right of the Association to suspend the voting rights and rights to use the Common Elements by an Owner for any period during which any assessment against his Condominium Unit remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(c) The right, power and authority of the Association to grant any easement, right-of-way, license, lease, dedication, transfer, conveyance or grant of any similar interest affecting the Common Elements, to the extent permitted by the Act, if the grant is approved by the affirmative vote of Owners having sixty-seven percent (67%) of the votes appurtenant to all Condominium Units, and consented to, in writing, by first Mortgagees whose Owners vote affirmatively; provided, further, that if the grant affects any Limited Common Element, such grant shall also require the express written consent of all Owners having the right to use such Limited Common Element and of all first Mortgagees in the Condominium Units to which such Limited Common Element is appurtenant; provided, further that the granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Elements shall not be deemed a transfer within the meaning of this clause. Any easement, right-of-way, license or similar interest granted by the Association pursuant to this Section shall state that the grant was approved (a) by Unit Owners having at least sixty-seven percent (67%) of the votes, and by the corresponding holders of first Mortgages; (b) if appropriate, by all Unit Owners having the right to use any Limited Common Element affected by the grant, and by the corresponding holder of first Mortgages. Such grant procedure may be used for the purpose (among other things) of permitting reasonable modification of the Common Elements to be made by or at the request of, and at the expense of, an Owner, if such modifications are necessary under the Federal Fair Housing Act (as heretofore and hereafter amended) or otherwise appropriate to afford to one or more persons with a disability, residing at or intending to reside at the Condominium Unit, the full enjoyment of such Condominium Unit, the Limited Common Elements appurtenant to such Condominium Unit and/or the Common Elements.

(d) The right of the Association to close or limit the use of the Common Elements while maintaining, repairing and making replacements in the Common Elements.

(e) The Special Declarant Rights of the Declarant reserved in this Declaration.

ARTICLE VII

ALTERATION, MAINTENANCE, REPAIR AND REPLACEMENT

7.1 Alteration. No alterations, additions or improvements may be made to a Condominium Unit which impair the structural integrity, electrical systems or mechanical systems of the Building, or lessen the support of any portion of the Project. Alterations, additions or improvements which change the external appearance of the Building or change the Common Elements in any respect may be made only with the prior written consent of the Association.

7.2 Approval of Alterations. An Owner seeking approval from the Association of alterations to his Condominium Unit pursuant to Article VII, Section 7.1 above, shall submit three complete sets of plans and specifications to the Association. Those plans shall consist of detailed site plans and floor plans which plans shall disclose the materials to be used, the color scheme, the name of the contractor and such other information as the Association may reasonably request. At the time such application package is complete, the Association shall have thirty (30) days to review and approve or deny the application. If the Association fails to act within the thirty (30) day period, it shall be deemed to have approved the plans as submitted. If the Association denies an Owner's application, it shall specify the reasons therefor and incorporate recommended changes to the plans.

7.3 Common Elements. The Association shall be responsible for the maintenance, repair and replacement of the Common Elements, except as stated in Section 7.4 below and subject to the expense allocation described in Section 6.4 above. However, if maintenance, repair or replacement of a Common Element is required as a result of damage caused by any Owner, such Owner shall be liable for said repair expense. For purposes of performing exterior maintenance and other duties of the Association, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner thereof, to enter upon any Unit at reasonable hours.

7.4 Limited Common Elements. The Owner of a Condominium Unit to which any balcony or deck is allocated shall be responsible for removal of snow, leaves and debris therefrom. The Association shall be responsible only for the ongoing maintenance, repair and replacement of said areas. The Association shall be responsible for the removal of snow, leaves and debris, and for the ongoing maintenance, repair and replacement of all other Limited Common Elements, subject to the expense allocation set forth in Section 6.4 above.

7.5 Units. Unit Owners shall be responsible for the maintenance, repair and replacement of their Unit, the inclusions within that Unit as specified in Section 3.2(d) hereof, and the properties located within the boundaries of their Unit.

ARTICLE VIII

DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS

8.1 Development Rights and Special Declarant Rights. The Declarant reserves, through five (5) years after the recording of this Declaration, the following Development Rights and Special Declarant Rights:

(a) the right to relocate boundaries between adjoining Units, enlarge Units, enlarge the Common Elements, reduce or diminish the size of Units, reduce or diminish the size of areas of the Common Elements, subdivide Units or complete or make improvements indicated on amendments to the Condominium Map;

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

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

(d) the right to appoint or remove any officer of the Association or any member of the Executive Board during the Declarant Control Period;

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

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

8.2 Additional Reserved Rights. In addition to the Special Declarant Rights set forth above, Declarant also reserves the following additional rights (the "Additional Reserved Rights"):

(a) **Sales.** The right to maintain sales offices, management offices and models in Units or on the Common Elements;

(b) **Signs.** The right to maintain signs and advertising on the Property to advertise the Project;

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

(d) **Use Agreements.** The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulations of parking and/or recreational facilities, for the benefit of the Owners and/or the Association.

(e) **Other Rights.** The right to exercise any Additional Reserved Right created by any other provision of this Declaration.

(f) **Amendment to the Declaration.** If Declarant elects to subdivide Units, Declarant shall record an Amendment to the Declaration reallocating the Allocated Interests (as said term is defined in Article X below) so that the Allocated Interests appurtenant to each Unit will be apportioned according to the total of Units submitted to the Declaration. The Amendment to the Declaration shall contain at a minimum the legal description of the new Unit(s) and a schedule of the Allocated Interests appurtenant to the Units.

(g) **Amendment to the Map.** Declarant shall, contemporaneously with the Amendment of the Declaration, file, if deemed necessary by Declarant, an Amendment to the Condominium Map showing the location of the subdivided Units. The Amendment to the Condominium Map shall substantially conform to the requirements contained in this Declaration.

(h) **Interpretation.** Recording of amendments to the Declaration and the Condominium Map in the office of the Clerk and Recorder of San Miguel County shall automatically:

(i) vest in each existing Owner the reallocated Allocated Interests appurtenant to their Unit; and

(ii) vest in each existing Mortgagee a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Unit.

Further, upon the recording of an Amendment to the Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the new Unit(s). Reference to the Declaration and Map in any instrument shall be deemed to include all Amendments to the Declaration, and the Map without specific reference thereto.

ARTICLE IX

RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

Subject to the Development Rights and Special Declarant Rights reserved by the Declarant, the following use restrictions apply to all Condominium Units and to the Common Elements:

9.1 Use of Condominium Units. Condominium Units shall be used solely and exclusively for residential purposes. No Condominium Unit shall be occupied by more persons than the Condominium Unit was designed to safely accommodate. No Unit shall be occupied in any manner at any time prior to being fully completed in accordance with approved plans.

9.2 Noxious/Offensive Activities. No noxious or offensive activities, including but not limited to the repair of automobiles or other motorized vehicles, shall be carried on upon or within the Project, nor shall anything be done thereon which may be or become an annoyance or nuisance to the Owners of Condominium Units within the Project, or which shall in any way interfere with their quiet enjoyment of their Condominium Units. No activity shall be conducted in any Condominium Unit and no improvement shall be constructed in any Condominium Unit which is or might be unsafe or hazardous to any person or property. This Section 9.2 shall be deemed,

specifically, to preclude any Owner from dumping or shoveling snow from his or her Condominium Unit (or any Limited Common Element appurtenant thereto) onto the Common Elements.

9.3 Unsightliness. No unsightliness shall be permitted on any portion of the Property. In accordance with said restriction, pipes, wires, poles, antenna and other facilities for the transmission or reception of audio or visual signals and other such apparatus shall be kept within an enclosed structure and shall not be visible from the exterior of any Condominium Unit. No storage shall be permitted on any of the Common Elements or Limited Common Elements, except that tasteful and well maintained patio furniture and/or a gas barbecue grill may be stored on the balcony or deck appurtenant to a Unit.

Each Condominium Unit at all times shall be kept in a clean, sightly, and wholesome condition. No kayaks, bicycles, other sporting equipment, trash, litter, junk boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any Unit so that the same are visible from any neighboring Unit, or any street, except as necessary during a period of construction. Declarant, its agents and assigns and the Association, and its agents, shall have the authority to enter and clean up Condominium Units which do not conform to the provisions of this Section, and to charge and collect from the Owners thereof all reasonable costs related thereto.

9.4 Parking. Unless specifically approved by the Association, automobiles shall be parked only in the spaces specified on the Condominium Map and pursuant to such rules and regulations as may be promulgated by the Executive Board. In no event shall any vehicles be permitted to park in the plaza. No boat, trailer or recreational vehicles, mobile home, tractor, camper or truck shall be parked or left on any part of the Project unless approved by the Association.

9.5 Signs. No sign or advertising device of any kind shall be displayed to the public view from any Condominium Unit or from the Common Elements without the approval of the Association, except such signs as may be used by the Declarant for the purposes of developing, selling and improving Condominium Units within the Project.

9.6 Animals. No animals shall be kept on the Property without the prior, specific written approval of the Association, which approval shall be at the sole and complete discretion of the Executive Board. In no event shall any tenant or guest of an Owner be permitted to keep an animal on the Property. In any event, the Association shall have the absolute right to prohibit the maintenance of any animals or pets which constitute in the sole and exclusive opinion of the Executive Board a nuisance to any Owner or occupant of a Condominium Unit. Each person bringing or keeping a pet shall be absolutely liable to each and all other Owners, their family members, guests, invitees, lessees and renters and contract purchasers and their respective family members, for any damages resulting from the maintenance of such animal or animals.

9.7 Barbecue Grills. No charcoal barbecue grills shall be used on the Property. Gas grills may be used on the decks or balconies of Units only in accordance with rules and regulations promulgated by the Executive Board.

9.8 No Hazardous Activities. No activity shall be conducted on any portion of the Property which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any portion of the Property and no open fires shall be lighted or permitted on any portion of the Property.

9.9 Restrictions on Loads. No Owner of a Condominium Unit may place a load on any floor, balcony or deck which exceeds the load which the floor, balcony or deck was designed to support. Specifically, no Owner may keep or install a spa, hot tub or similar facility on any floor above ground level, deck or balcony, except on the balconies appurtenant to Units 24 and 25. No Owner shall install, operate or maintain any item of heavy equipment or other installation, except in a manner designed to achieve a proper distribution of weight.

9.10 Lease of a Unit. Any Unit Owner shall have the right to lease their Condominium Unit upon such terms and conditions as the Unit Owner may deem advisable, subject to the following:

(a) Short term rentals (of less than three months) of Units to overnight and short term guests shall be subject to reasonable regulations of the Association, and shall be documented by execution of a lease agreement on a form approved by the Association.

(b) Any long term lease or rental agreement (of over 3 months) shall be in writing and shall provide that the lease or rental agreement is subject to the terms of this Declaration, the Bylaws of the Association and the Articles of Incorporation and the rules and regulations of the Association.

(c) All leases and rental agreements shall be on a form approved by the Association and shall state that the failure of the tenant or renter or guest to comply with the terms of the Declaration or Bylaws of the Association, Articles of Incorporation or the rules and regulations of the Association shall constitute a default of the lease or rental agreement and this Declaration and such default shall be enforceable by either the Association or the landlord, or by both of them.

(d) All tenants shall be subject to the right of the Association to evict the guest for failure to comply with the terms of the Declaration or Bylaws of the Association, the Articles of Incorporation or the rules and regulations of the Association.

9.11 Sale of a Unit. The right of an Owner to sell, transfer or otherwise convey their Condominium Unit shall not be subject to any right of first refusal or similar restriction and such Unit may be sold free of any such restrictions.

9.12 No Restrictions on Mortgaging of a Unit. There are no restrictions on the right of an Owner to mortgage or otherwise encumber their Condominium Unit. There is no requirement for the use of a specific lending institution or particular type of lender.

9.13 No Time Shares. A Condominium Unit may not be conveyed pursuant to a time-sharing arrangement described in Sections 38-33-110 to 113, Colorado Revised Statutes, without the written consent of Declarant for five (5) years from the date of recording of this Declaration, and thereafter, without the consent of the Association.

9.14 Rules and Regulations. In furtherance of the provisions of this Declaration, rules and regulations concerning and governing the Property or any portion thereof may be adopted, amended, or repealed, from time to time, by the Executive Board, or its successors and assigns. The Executive Board may establish and enforce penalties for the infraction thereof.

9.15 Insurance. Nothing shall be done or kept in any Condominium Unit or on the Common Elements which might increase the rate of or cause the cancellation of insurance on the Project, or any portion thereof, without the prior written approval of the Association.

9.16 Compliance with Law. No portion of the Property shall be used, occupied, altered, changed, improved or repaired except in compliance with all present and future laws, rules, requirements, orders, directions, ordinances and regulations of the United States of America, the State of Colorado, the County of San Miguel, the Town of Telluride and all other lawful authority whatsoever affecting the Property or the improvements thereon or any part thereof.

ARTICLE X

ALLOCATED INTERESTS

10.1 Allocated Interests. The undivided interest in the Common Elements, the Common Expense liability and votes in the Association allocated to each Condominium Unit are set forth on Exhibit B attached hereto and incorporated herein by reference.

10.2 - Determination of Allocated Interests. The interests allocated to each Condominium Unit have been calculated as follows:

(a) **The Undivided Interest in Common Elements:** On the basis of the number of square feet in each Condominium Unit compared to the total number of square feet in all of the Condominium Units on the Property, to the nearest one thousandth of one percent;

(b) **The Percentage of Liability for Common Expenses:** On the basis of the number of square feet in each Condominium Unit compared to the total number of square feet in all of the Condominium Units on the Property, to the nearest one thousandth of one percent; and

(c) **The Number of Votes in the Association:** On the basis of two votes each for Condominium Units 1 through 9 and 11 through 25, and one vote each for the subdivided units, Condominium Units 10A and 10B.

ARTICLE XI

INSURANCE/CONDEMNATION

11.1 Insurance Carried. The Association shall obtain and maintain in full force and effect to the extent reasonably available, and at all times, the insurance coverage set forth herein and as set forth in the Act, which insurance coverage shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado. Commencing not later than the time of the first conveyance of a Unit to a person other than a Declarant, the Association shall maintain, to the extent reasonably available, policies with the following terms or provisions:

(a) All policies of insurance shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be canceled or modified without at least twenty (20) days' prior written notice to all of the Owners, holders of first Mortgages and the Association.

(b) If requested, duplicate originals of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered to all holders of first Mortgages at least ten (10) days prior to expiration of the then current policies.

(c) All liability insurance shall be carried in blanket form naming the Association, the Executive Board, the manager or managing agent, if any, the officers of the Association, the Declarant, holders of first Mortgages, their successors and assigns and Owners as insured.

(d) Prior to obtaining any policy of casualty insurance or renewal thereof, pursuant to the provisions hereof, the Executive Board may obtain an appraisal from a duly qualified real estate or insurance appraiser, which appraiser shall reasonably estimate the full replacement value of the Units and the Common Elements, without deduction for depreciation, review any increases in the cost of living, and/or consider other factors, for the purpose of determining the amount of the insurance to be affected pursuant to the provisions hereof. In no event shall any casualty insurance policy contain a co-insurance clause for less than one hundred percent (100%) of the full insurable replacement cost.

(e) Unit Owners may carry other insurance for their benefit and at their expense, provided that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any such additional insurance carried by Owners and provided, further, that the policies of insurance carried by the Association shall be primary, even if an Owner has other insurance that covers the same loss or losses as covered by policies of the Association. In this regard, Declarant discloses that the Association's insurance coverage, as specified hereunder and under the Act, does not obviate the need for Owners to obtain insurance for their own benefit.

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

11.2 Hazard Insurance on the Units and Common Elements. The Association shall obtain adequate hazard insurance covering loss, damage or destruction by fire or other casualty to the Units, to the Common Elements and the other property of the Association. The insurance obtained on the Units is not required to include improvements and betterments installed by Owners. If coverage purchased by the Association includes improvements and betterments installed by Owners, the cost thereof shall be assessed to each Unit in proportion to risk. All policies shall contain a standard non-contributory mortgage clause in favor of each holder of first Mortgages, and their successors and assigns, which shall provide that the loss, if any thereunder, shall be payable to the Association for the use and benefit of such holders of first Mortgages, and their successors and assigns, as their interests may appear of record in the records of the office of the Clerk and Recorder of the County of San Miguel Colorado.

11.3 Liability Insurance. The Association shall obtain adequate comprehensive policy of public liability and property damage liability insurance covering all of the Units and the Common Elements, including structural coverage of the Units, in such limits as the Board may from time to time determine, but not in any amount less than One Million Dollars (\$1,000,000.00) per injury, per person, and per occurrence, and in all cases covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other uses of the Property and improvements thereon.

11.4 Fidelity Insurance. The Association shall obtain adequate fidelity coverage or fidelity bonds to protect against dishonest acts on the parts of its officers, members of the Executive Board, trustees and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation. The clause "officers, members of the Executive Board, trustees and employees" shall not include any officer, director, agent or employee of Declarant or any officer, director, agent or employee of any independent, professional manager or managing agent heretofore or hereafter employed by the Association. The fidelity coverage or bonds should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, members of the Executive Board, trustees and employees.

11.5 Workers' Compensation and Employer's Liability Insurance. The Association shall obtain workers' compensation and employer's liability insurance and all other similar insurance with respect to its employees in the amounts and forms as may now or hereafter be required by law.

11.6 Officers' and Directors' Personal Liability Insurance. The Association may obtain officers' and directors' personal liability insurance to protect the officers and members of the Executive Board from personal liability in relation to their duties and responsibilities in acting as officers and members of the Executive Board on behalf of the Association. Neither the term "officers" nor the term "directors" shall include any officer, director, agent or employee of Declarant nor any officer, director, employee or agent of any professional manager or managing agent heretofore or hereafter employed by the Association.

11.7 Other Insurance. The Association may obtain insurance against such other risks, of similar or dissimilar nature, including flood insurance, as it shall deem appropriate with respect to the Association's responsibilities and duties.

11.8 Insurance Premium. Except as assessed in proportion to risk, if permitted under the terms of this Declaration, insurance premiums for the above provided insurance shall be a Common Expense to be included as a part of the Common Expense Assessments levied by the Association.

11.9 Managing Agent Insurance. The manager or managing agent, if any, shall be insured to the same extent as the Association, as herein provided, and as provided in the Act, for the benefit of the Association, and shall maintain and submit evidence of such coverage to the Association.

11.10 Waiver of Claims Against Association. As to all policies of insurance maintained by or for the benefit of the Association and Owners, the Association and the Owners hereby waive and release all claims against one another, the Board and Declarant, to the extent of the insurance proceeds available, whether or not the insurance damage or injury is caused by the negligence of or breach of any agreement by and of said persons.

11.11 Annual Insurance Review. The Board shall review the insurance carried by and on behalf of the Association at least annually, for the purpose of determining the amount of insurance required.

11.12 Adjustments by the Association. Any loss covered by an insurance policy described above shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association, and not to any holder of a first Mortgage. The Association shall hold any insurance proceeds in trust for the Association, Owners and holders of first Mortgages as their interests may appear. The proceeds must be distributed first for the repair or restoration of the damaged property, and the Association, Owners and holders of first Mortgages are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored.

11.13 Duty to Repair. Any portion of the Project for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association, except as provided in the Act.

11.14 Condemnation and Hazard Insurance Allocations and Distributions. In the event of a distribution of condemnation proceeds or hazard insurance proceeds to the Owners, the distribution shall be as the parties with interests and rights are determined or allocated by record, and pursuant to the Act.

ARTICLE XII

SPECIAL RIGHTS OF HOLDERS OF FIRST MORTGAGES

12.1 General Provisions. The provisions of this Article are for the benefit of holders, insurers, or guarantors of holders of first Mortgages recorded against Units subject to this Declaration. To the extent applicable, necessary or proper, the provisions of this Article apply to both this Declaration and to the Articles and Bylaws of the Association. A holder, insurer or guarantor of a first Mortgage who has delivered a written request to the Association containing its name, address, the legal description and the address of the Unit upon which it holds a lien, shall be considered an "Eligible Holder." Eligible insurers and guarantors of first Mortgages shall have the same rights as Eligible Holder.

12.2 Special Rights. Eligible Holders shall be entitled to: (a) timely written notice from the Association of any default by a mortgagor of a Unit in the performance of the mortgagor's obligations under this Declaration, the Articles of Incorporation, the Bylaws or the rules and regulations, which default is not cured within sixty (60) days after the Association learns of such default; (b) examine the books and records of the Association during normal business hours; (c) receive a copy of financial statements of the Association, including any annual audited financial statement; (d) receive written notice of all meetings of the Executive Board or Members of the Association; (e) designate a representative to attend any such meetings; (f) written notice of any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; (g) thirty (30) days' written notice prior to the effective date of any proposed, material amendment to this Declaration, the Articles of Incorporation, or the Bylaws; (h) thirty (30) days written notice prior to the effective date of termination of any agreement for professional management of the Association or the Common Elements, when professional management had been required previously under the legal documents for the Property or by an Eligible Holder; and (i) immediate written notice as soon as the Association receives notice or otherwise learns of any damage to the Common Elements or a Unit if the cost of reconstruction exceeds Twenty Thousand Dollars (\$20,000.00) and as soon as the Association receives notice or otherwise learns of any condemnation or eminent domain proceedings or other proposed acquisition with respect to any portion of the Common Elements or any Units.

12.3 Special Approvals. Unless at least sixty-seven percent (67%) of the Eligible Holders of first Mortgages (based on one vote for each mortgage owned) of Units in the Association and requisite Owners have given their written approval, neither the Association nor any Member shall (a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements or any improvements thereon (except that the granting of access easements, utility easements, drainage easements and water facilities easements or easements for other public purposes consistent with the intended use of such real estate by the Association shall not be deemed within the meaning of this provision); (b) change the method of determining the obligations, Assessments or other charges which may be levied against Association members or the method of allocating

distributions of hazard insurance policy proceeds or condemnation awards; (c) by act or omission change, waive or abandon any scheme or regulation, or enforcement thereof, pertaining to Association approval of alterations to Units; (d) fail to maintain the casualty, fire and extended coverage insurance as elsewhere provided in this Declaration; (e) use hazard insurance proceeds for losses other than the repair, replacement or reconstruction of the improvements which were damaged or destroyed; (f) take action to terminate the legal status of the Project after substantial destruction or condemnation occurs; (g) amend any material provision of this Declaration; and (h) establish self-management by the Association when professional management has previously been required by the legal documents for the Project or by an Eligible Holder. An amendment shall not be deemed material if it is for the purpose of correcting technical errors, or for clarification only. If an Eligible Holder of a first Mortgage receives written request for approval of the proposed act, omission, change or amendment by certified or registered mail, with a return receipt requested, and does not deliver or post to the requesting party a negative response within thirty (30) days, it shall be deemed to have approved such request.

12.4 Right to Pay Taxes and Insurance Premiums. Any holder of a first Mortgage shall be entitled to pay any taxes or other charges which are in default and which may or have become a lien against a Unit or any of the Common Elements and may pay any overdue premiums on hazard insurance policies or secure new hazard insurance coverage for the Common Elements or Units, and the holder of a first Mortgage making such payments shall be entitled to immediate reimbursement therefor from the Association.

ARTICLE XIII

EASEMENTS AND LICENSES

13.1 Recording Data. All easements and licenses to which the Condominium is presently subject are recited on Exhibit A attached hereto and incorporated herein by reference. In addition, the Property may be subject to other easements or licenses granted by the Declarant pursuant to the Act. In addition, the Property may be subject to other easements or licenses granted by the Declarant pursuant to this Declaration, or granted by authority reserved in any recorded document.

13.2 Utility Easements. Easements for utilities over and across the Common Elements shall be those shown upon the recorded Map of the Property and such other easements as may be established pursuant to the provisions of this Declaration, or granted by authority reserved in any recorded document.

13.3 Easements for the Executive Board. Each Unit shall be subject to an easement in favor of the Executive Board (including its agents, employees and contractors) to perform its obligations pursuant to this Declaration.

13.4 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing the Property, to enter upon any part of the Property in the performance of their duties.

ARTICLE XIV

GENERAL PROVISIONS

14.1 Enforcement. The Association or a Unit Owner or Unit Owners of any of the Units may enforce the restrictions, conditions, covenants and reservations imposed by the provisions of this Declaration by proceedings at law or in equity against any person or persons, either to recover damages for such violation, including reasonable attorneys' fees incurred in enforcing these covenants, or to restrain such violation or attempted violation. Failure of the Association or of any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Executive Board may post on a bulletin board at a conspicuous place on the Common Elements notices of any covenant violations by owners or guests. Failure to post shall not affect the validity of any lien or covenant violation.

14.2 Compliance with Federal Fair Housing Act. In order to comply with the requirements of the Federal Fair Housing Act (as heretofore and hereafter amended);

(a) The Executive Board may, to the extent permitted by law, make reasonable accommodations in the rules and regulations to the extent such accommodations are necessary under the aforesaid Federal Fair Housing Act or otherwise appropriate to afford a person with a disability equal opportunity to use and enjoy a Unit, the Limited Common Elements appurtenant thereto, and/or the Common Elements, which accommodations may include waivers and modifications of such rules and regulations that are applicable only to a particular person with a disability or to a particular category of persons with a disability. Unless required by law, (i) the Executive Board need not follow procedural requirements in making such waivers and modifications, and (ii) such waivers and modifications need not be approved by, or be subjected to disapproval by, the members of the Association.

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

14.3 Severability. Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of this Declaration or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications.

14.4 Term of Declaration. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

14.5 Amendment of Declaration by Declarant. Until the first Unit has been conveyed by Declarant by deed recorded in the office of the County Clerk and Recorder of the County of San Miguel, Colorado, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration may be amended or terminated by Declarant by the recordation of a written instrument, executed by Declarant, setting forth such amendment or termination. Thereafter if Declarant shall determine that any amendments to this Declaration shall be necessary in order to make non-material changes, such as the correction of a technical, clerical or typographical error or clarification of a statement, then, subject to the following sentence of this Section, Declarant shall have the right and power to make and execute any such amendments without obtaining the approval of any Owners. Each such amendment of this Declaration shall be made, if at all, by Declarant prior to December 31, 1999. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to make or consent to an amendment under this Section on behalf of each Owner and holder of a Mortgage. Each deed, mortgage other evidence of obligation or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of Declarant to make, execute and record an amendment under this Section.

14.6 Amendment of Declaration by Unit Owners. Except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of Declarant or others, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended or repealed at any time and from time to time upon approval of at least 67% of the votes in the Association and with the written consent of the Association. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of San Miguel County, State of Colorado, of a certificate, setting forth the amendment in full and certifying that the amendment has been approved as set forth above, and containing the written consent and approval of the Association.

14.7 Amendment Required by Government Mortgage Agencies. Prior to December 31, 1999, any provision, covenant, conditions, restriction or equitable servitude contained in this Declaration which FHA, VA, FHLMC, GNMA, FNMA or any similar entity authorized to insure, guarantee, make or purchase mortgage loans requires to be amended or repealed may be amended or repealed by Declarant or the Association. Any such amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of San Miguel County, State of Colorado, of a certificate, setting forth the amendment or repeal in full.

14.8 Required Consent of Declarant to Amendment. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of any provision of this Declaration shall not be effective unless Declarant has given its written consent to such amendment or repeal, which consent may be evidenced by the execution by Declarant of any certificate of amendment or repeal. The foregoing requirement for consent of Declarant to any amendment or repeal shall terminate on December 31, 1999, or upon conveyance of 100% of the Units to Unit Owners, whichever occurs first.

14.9 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development of the Units and of promoting and effectuating the fundamental concepts as set forth in the recitals of this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado.

14.10 Singular Includes the Plural. Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

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

IN WITNESS WHEREOF, the Declarant has caused this Declaration of Condominium for Double Diamond Condominium to be executed this 18th day of December, 1996.

DECLARANT:

Coonskin Partners, L.L.C.
R.C. Lorenz Contracting, Inc., Manager

By: [Signature]
Robert C. Lorenz, President

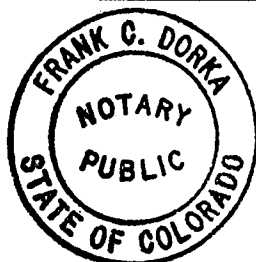
ACKNOWLEDGEMENT

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

IN WITNESS WHEREOF, Robert C. Lorenz, President of R.C. Lorenz Contracting, Inc., sole manager of Coonskin Partners, L.L.C., a Colorado limited liability company, has executed this Declaration this 18 day of DECEMBER, 1996.

Witness my hand and official seal.

My commission expires: COMMISSION EXPIRES 8-18-2000



[Signature]
Notary Public

LENDER CONSENT

Consent is hereby given to the above Declaration. Lender agrees and acknowledges that any foreclosure or enforcement of any other remedy available to Lender under a deed or deeds or trust or other security agreements will not render void or otherwise impair the validity of the Declaration covenants running with the land described in the Declaration.

Dated in Telluride, Colorado, this 18th day of December, 1996.

First National Bank of Telluride

L. H. Fleming
Authorized Agent

ATTEST:

By _____
Authorized Agent

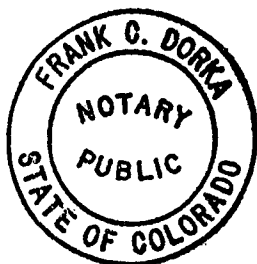
ACKNOWLEDGEMENT

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

The foregoing Lender Consent was acknowledged before me by TOM KERNING this 18 day of December, 1996.

Witness my hand and official seal.

My commission expires: COMMISSION EXPIRES 8-18-2000



Frank C. Dorka
Notary Public

EXHIBIT A

The Condominium to be created upon the Property, described as:

Lot H, Backman Village Subdivision, Amended Plat No. 1, recorded in the Office of the Clerk and Recorder in Plat Book 1 at Page 328, together with a 10.00 foot pedestrian easement appurtenant to Lot H which runs over, across and along a portion of Lot K in said subdivision which abuts the northerly most line of Lot H, inuring to the benefit of Lot H, according to the Plat recorded in the Office of the Clerk and Recorder in Plat Book 1 at Page 328, San Miguel County, Colorado,

is subject to the following covenants, restrictions and/or easements:

1. Those Protective Covenants, Conditions and Restrictions for Backman Village Subdivision, as recorded in Book 380 at Page 377, as amended in Book 388 at Page 838.
2. Those matters set forth in that Operations and Maintenance/Project Management Agreement for South Backman Village Improvement District, recorded January 12, 1989 in Book 450 at Page 364, San Miguel County Clerk and Recorder's Office.
3. The general pedestrian access easement filed of record March 10, 1981 in Plat Book 1 at Page 328, San Miguel County Clerk and Recorder's Office.
4. The Sidewalk Easement Agreement recorded October 30, 1996 in Book 569, Page 905, San Miguel County Clerk and Recorder's Office.

EXHIBIT B
TABLE OF INTERESTS

UNIT NO.	INTEREST IN COMMON ELEMENTS PERCENTAGE	LIABILITY FOR COMMON EXPENSES PERCENTAGE	VOTE IN THE AFFAIRS OF ASSN.
1	4.496	4.496	2
2	4.451	4.451	2
3	3.538	3.538	2
4	3.541	3.541	2
5	3.861	3.861	2
6	4.020	4.020	2
7	4.006	4.006	2
8	4.006	4.006	2
9	4.006	4.006	2
10A	1.101	1.101	1
10B	2.884	2.884	1
11	4.006	4.006	2
12	4.006	4.006	2
13	4.006	4.006	2
14	4.006	4.006	2
15	4.006	4.006	2
16	4.006	4.006	2
17	4.006	4.006	2
18	4.006	4.006	2
19	4.006	4.006	2
20	4.006	4.006	2
21	4.006	4.006	2
22	4.006	4.006	2
23	4.006	4.006	2
24	4.006	4.006	2
25	4.006	4.006	2
	TOTAL 100%	TOTAL 100%	TOTAL 100