

**DECLARATION ESTABLISHING  
MEADOW VISTA CONDOMINIUMS**

Up Above Builders, LLC, a Colorado limited liability company ("Declarant") hereby makes the following grants, submissions and declarations:

**I**

**PURPOSE AND PLAN**

**1.1 Purpose.** The purpose of this Declaration is to create a Condominium Common Interest Community pursuant to the Colorado Common Interest Ownership Act, Colorado Revised Statutes, 38-33.3-101, et seq., 1973, as amended.

**1.2 Plan.** The Declarant is the owner of the land described on attached **Exhibit A** (Land) which is shown and described on the Map, filed pursuant to Section 2.16 hereinafter. The existing structures (Buildings) located on the Land are residential buildings with related improvements. The location of the Buildings on the Land and the dimensions thereof are shown on the Map. The Buildings contain 8 units.

Declarant hereby declares that all of the land described in **Exhibit A** shall 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 land and be binding on all parties having any right, title or interest in the land or any part thereof, their heirs, legal representatives, successors, and assigns and shall inure to the benefit of each Owner thereof. Additionally, Declarant hereby submits the land to the provisions of the Colorado Common Interest Ownership Act, Sections 38-33.30-101, et seq., Colorado Revised Statutes, as it 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 In the event the Act is repealed, the Act, on the effective date of this Declaration, shall remain applicable.



The Map identifies Units as Units A, B, C, D, E, F, G and H. Each Unit shall have appurtenant thereto the undivided interest in the common elements and common expenses of the association and a portion of the votes in the association as described on attached **Exhibit B**.

## II

### DEFINITIONS

**2.1 Act.** Act means the Colorado Common Interest Ownership Act, Sections 38-33.3-101 et seq., as amended.

**2.2 Association.** Association means the Colorado nonprofit corporation formed for management of the Condominium and more specifically described in Article V hereof.

**2.3 Association Documents.** Association Documents means this Declaration, the Articles of Incorporation, the Bylaws, the Map and any procedures, rules, regulations or policies adopted under such documents by the Association.

**2.4 Buildings.** The Buildings means the structures on the Land as shown on the Map.

**2.5 Common Expenses.** Common Expenses are defined in Section 6.1 hereof.

**2.6 Condominium.** Condominium shall mean the entity created by this Declaration and the Map and shall include Units, Common Elements, the Building and the Land as defined herein and in the Map of Meadow Vista Condominiums.

**2.7 Condominium Unit or Unit.** Condominium Unit or Unit means an individual air space unit contained within the unfinished interior surfaces of the perimeter walls, floors, ceilings, windows and doors of an air space unit as reflected on and described in the Condominium Map, together with all fixtures and improvements therein contained, except for common utility facilities, the interior decorated or finished surfaces of such Unit's interior wall, floors, ceiling, windows and doors, and the interior non-supporting or non-load bearing walls within the Unit. The interior surfaces of a window or door



means the points at which such surfaces are located when such windows or doors are closed. The term does not include the undecorated or unfinished surfaces of the perimeter walls, floors or ceilings of a Unit, any utility facilities running through the Unit that serve more than one Unit, any structural component of the building, or any other Common Element or part thereof located within the Unit. The term Unit includes the undivided interest in the General Common Elements and the Limited Common Elements appurtenant thereto.

**2.8 Declarant.** Declarant means Up Above Builders, LLC, a Colorado limited liability company, its representatives, successors or assigns.

**2.9 Declaration.** Declaration means this document with all Exhibits attached hereto which by this reference are incorporated herein, and all supplements hereto, and the Map, which documents will be recorded pursuant to the Colorado Common Interest Ownership Act, Colorado Revised Statutes, 38-33.3-101, et seq., as amended.

**2.10 Executive Board.** Executive Board shall mean the governing board of the Association elected by the Owners to operate, maintain and manage the Condominium.

**2.11 First Mortgage or Deed of Trust.** A security interest on a unit which has priority over all other security interests on the unit.

**2.12 General Common Elements or Common Elements.** General Common Elements or Common Elements means all of the Project except the Units.

**2.13 Land.** Land means the real property described on attached **Exhibit A.**

**2.14 Limited Common Elements.** Limited Common Elements means common elements reserved for the use of less than all of the Units. All such areas are shown on the Map as Limited Common Elements and allocated thereby to the appropriate Unit or Units.

**2.15 Managing Agent.** Managing Agent shall mean the person or entity employed by the Association to perform the obligations of the Association relative to operation, maintenance and management of the Condominium.

**2.16 Map.** Map means the survey and drawings prepared by Norman C. Whitehead, Colorado L.S. No. 27739, entitled Map of Meadow Vista Condominiums and filed for record with the Clerk and Recorder of the County of Gunnison, Colorado, on October 5, 2006, Reception No. 1169750, which reflects the legal description and location of the Land and all Units.

**2.17 Owner.** Owner means any person, persons, partnership, corporation, limited liability company or other entity or any combination thereof owning all or part of the fee simple title to a Unit. In the event a Unit is owned by more than one person or entity, (a) such Owner shall designate in writing one person or entity and their address to represent such Owner and receive notices and (b) liability for all obligations created by this Declaration shall be joint and several. Upon the failure of an Owner to so designate one person or entity, the Association shall be deemed to be the agent for receipt of notices to such Owners.

**2.18 Owner's Agent.** Owner's Agent means members of the Unit Owner's family, or the Unit Owner's agent, employee, invitee, licensee or tenant, or the agent, employee, invitee, licensee or tenant of the Unit Owner's tenant.

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

**2.20 Votes and Percentage of Owners.** Whenever in this Declaration a vote of Owners is required or permitted, each Owner shall be entitled to the voting percentage set forth on attached **Exhibit B**. Whenever in this Declaration reference is made to a percentage of Owners such percentage shall mean the aggregate voting percentage of the Owners voting or represented.





III

**GRANT AND SUBMISSION**

**3.1 Grant and Submission.** Declarant hereby grants and submits to condominium ownership all of the Land, the Buildings thereon, and the improvements related or incidental thereto as located upon the Land.

**3.2 Conveyance of Fixtures.** Declarant hereby grants and submits to condominium ownership all of the equipment, supplies, materials, and other property which are affixed to the Land or the improvements appurtenant thereto.

**3.3 Allocated Interests.** The undivided interest in the Common Elements, the Common Expense liability and votes in the Association allocated to each Unit are set forth in **Exhibit B**. The interests allocated to each Unit have been calculated as follows:

- (a) the undivided interest in Common Elements, on the basis of number of Units within the project;
- (b) the percentage of liability for Common Expenses, on the basis of number of Units within the project; and
- (c) the number of votes in the Association, on the basis of number of Units within the project.

IV

**OCCUPATION AND USE**

**4.1 Division of Condominium into Units.** The Condominium is divided into eight (8) fee simple estates known as Condominium Units which are shown on the Map.

**4.2 Easements for Encroachments of Common Elements and Apartment Units.** If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements, as a result of the construction of the Buildings, or if any such encroachments shall occur hereafter as a result of

settling or shifting of the Buildings, or for any other reason, valid easements shall exist for such encroachments and for the maintenance of the same so long as the Buildings shall exist. In the event the Buildings or any part thereof shall be rebuilt, and if encroachments of parts of the Common Elements upon any Unit or of any Unit upon any other Unit or upon any portion of the Common Elements exist due to such rebuilding, valid easements shall exist for such encroachments and the maintenance thereof so long as the Buildings shall exist.

**4.3 Conveyance of Condominium Units.** Each Unit and the undivided ownership interest in the Common Elements appurtenant thereto shall be inseparable and may be conveyed, leased or encumbered only as a Condominium Unit.

**4.4 Description of Condominium Units.** Every deed, lease, mortgage, trust deed or other instrument shall legally describe a Unit by its number followed by the words "Meadow Vista Condominiums" with further reference to this Declaration and the Map. Every such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber, or otherwise affect a Unit, and such Unit's percentage of interest in the Common Elements.

**4.5 Exclusive Possession and Use Restriction.** Each Owner shall be entitled to exclusive ownership and possession of such Owner's Unit (including any fixtures appurtenant thereto) and exclusive possession and use of the Limited Common Elements allocated to his Unit. Each Owner may use the Common Elements in accordance with the purposes for which they are intended, without hindering or encroaching upon the lawful rights of other Owners. Subject to the provisions of Article XI, below, each Unit may be used or occupied in any manner consistent with the building and land use regulations of Gunnison County, Colorado, or other authority having jurisdiction thereof.

**4.6 Right of Access and Emergency Repairs.** The Association shall have the right of access to each Unit and its appurtenant Common Elements from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of Common Elements, or at any time deemed necessary for the making of emergency repairs to prevent damage to the Common Elements or to the Unit or to another Unit.

**4.7 No Partition.** No Owner shall bring an action for partition of his Unit or of the Common Elements, or of the Land.

**4.8 Right to Mortgage.** Each Owner shall have the right from time to time to encumber his interest in his Unit by deed of trust, mortgage or other security instrument.

**4.9 Combination of Units.** In the event that one Owner shall own two adjacent Units, such Owner shall have the right to combine such Units into one area and to create entries, door openings and stairways between such Units, so long as such changes do not affect load-bearing walls or pipes, conduits, ducts, shafts and wiring for the utility services of the Building.

**4.10 Leasing.** Subject to the remaining provisions of this Section 4.10, an Owner shall have the right to lease his Unit in its entirety upon such terms and conditions as the Owner may deem advisable; provided, however that (a) all leases shall be in writing and shall provide that the lease is subject to the terms of the Association Documents and a copy of the Association's rules are provided to the Lessee with the lease; (b) a Unit may be leased only for the uses provided herein; and (c) any failure of a lessee to comply with the terms of this Declaration or any other Association Documents shall be a default under the lease enforceable by the Association as a third party beneficiary, whether or not the lease contains such a provision. All leases shall be filed with the Association.

**4.11 Neglect by Owner or Owner's Agents.** If, due to the act or neglect of an Owner or Owner's Agents, loss or damage shall occur or be caused to any person or property other than the Owner's Unit, such Owner and/or Owner's Agent shall be liable and responsible for the payment of same. The amount of such loss or damages and any costs incurred by the Association in connection with the enforcement of the Association's rights shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in this Declaration.

V

**MEADOW VISTA  
CONDOMINIUMS ASSOCIATION**

**5.1 Owners Association.** The administration of the Condominium shall be governed by this Declaration and the Articles of Incorporation and the Bylaws of Meadow Vista Condominiums Association (Association), a Colorado

nonprofit corporation. The Association shall have all of the powers, authority and duties permitted pursuant to the Act necessary or convenient to manage the business and affairs of the Condominium. An Owner of a Condominium Unit shall automatically become a member of the Association and shall remain a member for the period of his ownership. Except for members of the Executive Board appointed by Declarant during the period of Declarant control, all Executive Board members shall be elected by Owners of Units. Each Owner, including Declarant while Declarant owns any Unit, is subject to all the rights and duties assigned to Owners under the Association Documents.

**5.2 Declarant Control.** Declarant shall be entitled to appoint and remove the members of the Association's Executive Board and officers of the Association during the term of Declarant Control. "Declarant Control" begins with the appointment of the initial Executive Board and continues until the earlier of: (a) five (5) years from the date of recording the Declaration, (b) sixty (60) days after Declarant conveys seventy-five percent (75%) of the Units that may be created to Owners other than Declarant; (c) two (2) years after the last conveyance of a Unit by Declarant in the ordinary course of business, or (d) two (2) years after the right to add new Units was last exercised (if such right is reserved by Declarant in this Declaration). Declarant may voluntarily relinquish such power evidenced by a notice executed by Declarant and recorded with the Gunnison County Clerk and Recorder but, in such event, Declarant may at its option require that specified actions of the Association or the Executive Board as described in the recorded notice, during the period Declarant would otherwise be entitled to appoint and remove directors and officers, be approved by Declarant before they become effective. Under the Act, Declarant Control is further extinguished, to the extent stated, sixty (60) days after the following events: (a) Declarant conveys twenty-five percent (25%) of the Units that may be created to owners other than Declarant, to the extent of twenty-five percent (25%) of the members of the Executive Board (minimum of one), and (b) Declarant conveys fifty percent (50%) of the Units that may be created to Owners other than a Declarant, to the extent of thirty-three and one third percent (33 1/3%) of the members of the Executive Board.

**5.3 Association Management.** The Association shall conduct the general management, operation and maintenance of the Condominium and the Units and the enforcement of the provisions of this Declaration and of the Articles and Bylaws of the Association and rules and regulations adopted thereunder. The Association may assign its future income, including its rights

to receive Common Expense assessments, only by the written approval of the Owners of Units.

**5.4 Association Budget.** The budget shall be submitted to the Owners, pursuant to Section 303(4) of the Act. Common Expense assessments shall be due and payable annually or in periodic installments, or in any other manner. Common Expense assessments may begin on the first day of the month in which conveyance of the first 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 Notice to Unit Owners.** Notice of matters affecting the Association, the Common Elements or other aspects of the project shall be given to Unit Owners by the Association or other Unit Owners in writing addressed to each Unit Owner at the address provided to the Association by each Unit Owner. If a Unit Owner has failed to provide an address, the Association shall use the address set forth in the deed or other instrument of conveyance recorded in the Gunnison County records by which the Unit Owner acquired title.

**5.6 Books and Records.** The Association shall make available for inspection, upon request, during normal business hours or under other reasonable circumstances, to Owners and to Mortgagees, current copies of the Association Documents and the books, records and financial statements of the Association prepared pursuant to the Bylaws. The Association may charge a reasonable fee for copying such materials. The Association shall maintain such books and records as may be required under the Act.

**5.7 Manager.** The Association may employ or contract for the services of a Manager to whom the Executive Board may delegate certain powers, functions or duties of the Association, as provided in the Bylaws of the Association. The Manager shall not have the authority to make expenditures except as directed by the Executive Board.

**5.8 Rights of Action.** The Association on behalf of itself and any aggrieved Unit Owner shall be granted a right of action against any and all Unit Owners for failure to comply with the provisions of the Association Documents, or with decisions of the Executive Board made pursuant to authority granted to the Association in the Association Documents. The Unit Owners shall have a right of action against the Association for failure to comply with the provisions of the Association Documents, or with decisions of



the Executive Board made pursuant to authority granted to the Association in the Association Documents. In any action covered by this section, the Association or any Unit Owner shall have the right but not the obligation to enforce the Association Documents by any proceeding at law or in equity, or as set forth in the Association Documents, or by mediation or binding arbitration if the parties so agree. The prevailing party in any arbitration or judicial relief shall be awarded reimbursement from the non-prevailing party or parties, for all reasonable costs and expenses, including attorneys' fees, in connection with such arbitration or judicial relief. Failure by the Association or by any Owner to enforce compliance with any provision of the Association Documents shall not be deemed a waiver of the right to enforce any provision thereafter.

**5.9 Implied Rights and Obligations.** The Association may exercise any right or privilege expressly granted to the Association in the Association Documents, by the Act and by the Colorado Nonprofit Corporation Act.

**5.10 Powers of the Executive Board.** Except as provided in the Bylaws and the Act, the Executive Board may act in all instances on behalf of the Association, to:

- (a) Adopt and amend bylaws and rules and regulations;
- (b) Adopt and amend budgets for revenues, expenditures and reserves and collect Assessments;
- (c) Hire and terminate management agents and other employees, agents and independent contractors;
- (d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Unit Owners on matters affecting the Project;
- (e) Make contracts and incur liabilities, except that any contract providing for the services of Declarant may not exceed three years and must provide for termination by either party without cause and without payment of a termination fee on ninety days or less written notice;
- (f) Regulate the use, maintenance, repair, replacement and modification of Common Elements;



(g) Cause additional improvements to be made as a part of the Common Elements;

(h) Acquire, hold, encumber and convey in the name of the Association any right, title or interest to real or personal property, except that Common Elements may be conveyed or subjected to a security interest only if (a) all Owners agree to that action, and (b) all Owners of Units to which any Limited Common Element is allocated agree in order to convey that Limited Common Element or subject it to a security interest;

(i) Grant easements, leases, licenses and concessions through or over the Common Elements;

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the General Common Elements;

(k) Impose charges for late payment of Assessments, recover reasonable attorney fees and other legal costs for collection of Assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated, and after notice and opportunity to be heard, levy reasonable fines for violations of the Association Documents.

(l) Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid Assessments;

(m) Provide for indemnification of its officers and Executive Board and maintain directors' and officers' liability insurance;

(n) Assign its right to future income, including the right to receive Assessments;

(o) Insure the furnished interior of all Units;

(p) Exercise any other powers conferred by the Declaration or Association Bylaws;

(q) Exercise all other powers that may be exercised in this state by legal entities of the same type as the Association; and

(r) Exercise any other powers necessary and proper for the governance and operation of the Association.

## VI

### COMMON EXPENSES

**6.1 Common Expenses.** The costs and expenses (Common Expenses) of managing, operating and maintaining the Condominium by the Association shall be personal obligations to be borne by all Owners. Common Expenses shall be used for the purpose of promoting the health, safety and welfare of the occupants of the project, including the overhead expenses of the Association, costs of maintenance, repair and operation of the Common Elements, taxes and special assessments unless separately assessed, insurance premiums for insurance coverage as deemed desirable or necessary by the Association, utility charges for common elements including gas, electricity, water, sewer, trash and garbage collection, guard service, burglar alarm service, landscape maintenance and snow removal, janitorial service, legal and accounting fees, management fees, common element charges and the creation of a reasonable contingency or other reserve or surplus funds.

**6.2 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 Unit 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 Unit 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 such successor in title.

### **6.3 Assessment.**

(a) Initially, Common Expenses shall be estimated by the Association for the period from the date that the Condominium was created to the end of the then calendar year and each Owner shall be assessed his pro rata share thereof at such date. Thereafter Common Expenses shall be estimated by the Association annually for the ensuing calendar year and each

Owner shall be assessed for his pro rata share thereof in advance of the commencement of each such year. The assessments shall be made pro rata according to each Owner's percentage of interest as set forth herein. The Association may establish any reasonable system for periodic collection of assessments, in advance or arrears, as deemed desirable. At the end of each calendar year the Association shall determine actual expenses and either assess each Owner or credit him against the assessment for the next ensuing calendar year, as the case may be, for his share of the difference between estimated and actual expenses. Alternatively, the Association may credit any unused portion of assessments toward a reserve fund. The failure of the Association to fix the assessment for any assessment period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay the Common Expenses.

(b) In addition to the Annual Assessments, the Association may levy in any fiscal year one or more Special Assessments, payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of improvements within the Common Elements or for any other expense incurred or to be incurred as provided in this Declaration. This section shall not be construed as an independent source of authority for the Association to incur expense, but shall be construed to prescribe the manner of assessing expenses authorized by other sections of this Declaration. Any amounts assessed pursuant to this section shall be assessed to Owners according to their allocated interests for Common Expenses, subject to the right of the Association to assess only against the Owners of affected Units any extraordinary maintenance, repair or restoration work on fewer than all of the Units which shall be borne by the Owners of those affected Units only, and any extraordinary insurance costs incurred as a result of the value of a particular Owner's Unit or the actions of a particular Owner or Owner's Agents which shall be borne by that Owner. Notice in writing of the amount of such Special Assessments and the time for payment of the Special Assessments shall be given promptly to the Owners, and no payment shall be due less than ten (10) days after such notice shall have been given.

(c) All monetary fines assessed against an owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents, shall be a Default Assessment and shall become a lien against such Owner's Unit which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and



due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least ten (10) days prior to the due date.

**6.4 Nonpayment of Assessments and Lien.** All sums assessed but unpaid for the Common Expenses chargeable to any Owner shall constitute a lien on such Owner's Unit, superior to all other liens and encumbrances, except for: (i) liens for real estate taxes and other governmental assessments or charges against the unit; (ii) liens and encumbrances recorded before the recordation of this Declaration; and (iii) the lien of a first mortgage or deed of trust, provided, however, that the lien for assessments shall be prior to the lien of a first mortgage or deed of trust to the extent of:

(a) An amount equal to the common expense assessments based on a periodic budget adopted by the association which would have become due, in the absence of any acceleration, during the six months immediately preceding institution of an action to enforce the lien, but in no event shall the priority accorded under this subparagraph (a) to such lien exceed one hundred fifty percent of the average monthly assessment during the immediately preceding fiscal year multiplied by six;

(b) Attorney fees and costs being incurred in an action to enforce the lien.

**6.5 Effect of Non-Payment of Assessments.** Any assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within ten (10) days after the due date thereof shall bear interest at the rate of 18% per year or at such other rate as determined by the Executive Board and the Association may assess a late charge thereon. Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Unit. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefor.

**6.6 Working Fund.** The Association or Declarant may require the first Owner of each Unit (other than Declarant) to make a non-refundable payment to the Association in an amount equal to one-sixth of the annual Common Expense Assessment against that Unit in effect at the closing thereof, which



sum shall be held, without interest, by the Association as a working fund. Said working fund shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Unit, as aforesaid, and shall be maintained for the use and benefit of the Association. Such payment shall not relieve an Owner from making regular payments of assessments as the same become due. Upon the transfer of his Unit, an Owner shall be entitled to a credit from his transferee for any unused portion of the aforesaid working fund.

**6.7 Statement of Assessments.** The association shall furnish to a unit owner or such unit 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, to the association's registered agent, a statement setting forth the amount of unpaid assessments currently levied against such owner's unit. The statement shall be furnished within fourteen calendar days after receipt of the request and is binding on the association, the Executive Board, and every unit owner. If no statement is furnished 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.

## VII

### MAINTENANCE AND ALTERATIONS

**7.1 Maintenance by Owners.** Each Owner shall maintain and keep in repair the interior of his Unit, including the fixtures thereof to the extent current repair shall be necessary in order to avoid damaging other Unit Owners, and the surfaces (excluding the roofing elements) of Limited Common Elements allocated to the Unit. All fixtures and equipment installed within the Unit commencing at a point where the utilities enter the Unit shall be maintained and kept in repair by the Owner of such Unit. An Owner shall do no act or any work that will impair the structural soundness or integrity of the Common Elements or impair any easement. Each Owner shall be responsible for the maintenance of the interior non-supporting walls of his Unit, and the surface materials thereon such as plaster, drywall, paneling, wallpaper, paint, tile and carpeting of the perimeter walls, ceilings and floors within the Unit, including Unit doors, windows and screens. The Association reserves the right to grant the maintenance responsibility to the Unit Owner of certain



areas on each Unit and of other Limited Common Elements, and the Unit Owner is obligated to accept said maintenance responsibility, provided said assignment is done in a uniform and nondiscriminatory manner.

**7.2 Owner's Failure to Maintain or Repair.** In the event that a Unit (including the allocated Limited Common Elements) is not properly maintained and repaired, and if the maintenance responsibility for the unmaintained portion of the Unit lies with the Owner of the Unit, or in the event that the Unit is damaged or destroyed by an event of casualty and the Owner does not take reasonable measures to diligently pursue the repair and reconstruction of those portions of the damaged or destroyed Unit for which the Owner is responsible to substantially the same condition in which they existed prior to the damage or destruction, then the Association, after notice to the Owner and with the approval of the Executive Board (after a determination by the Executive Board that the condition of such Unit negatively impacts other Owners or the value of other Units within the Project) shall have the right to enter upon the Unit to perform such work as is reasonably required to restore the Unit to a condition of good order and repair. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner of the Unit, upon demand. All reimbursed costs shall be a lien upon the Unit until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid Assessment levied in accordance with Article VI of this Declaration.

**7.3 Maintenance by Association.** The Association shall be responsible for the maintenance and repair of the Common Elements, whether located inside or outside of Units (except as set forth in Section 7.1 above and unless necessitated by damage caused by the negligence, misuse or tortuous act of a Unit Owner or Owner's Agent as set forth in Section 7.4 below), which shall be the Common Expense of all Owners. This maintenance shall include, but shall not be limited to, upkeep, repair and replacement, subject to any insurance then in effect, of all landscaping and walls which Owner is not required to maintain as set forth in Section 7.1, gates, signage, irrigation systems, sidewalks, driveways and improvements, if any (which shall include without limitation snow removal services unless performed by another private or public organization formed for such purposes), located in the Common Elements. In the event the Association does not maintain or repair the Common Elements, Declarant shall have the right, but not the obligation, to do so at the expense of the Association.





**7.4 Association Maintenance as Common Expense.** The cost of maintenance and repair by the Association shall be a Common Expense of all of the Owners, to be shared by each Unit Owner according to the allocated interests therefore set forth on Exhibit B. Damage to the interior or any part of a Unit resulting from the maintenance, repair, emergency repair or replacement of any of the Common Elements or as a result of emergency repair or replacement of any of the Common Elements or as a result of emergency repairs within another Unit at the instance of the Association shall also be Common Expense of all of the Owners. However, if such damage is caused by negligent or tortuous acts of a Unit Owner or Owner's Agent, then such Unit Owner shall be responsible and liable for all of such damage and the cost thereof, to the extent that Owner or Owner's Agent's negligence caused such damage, which must be timely paid.

**7.5 Easement for Maintenance.** Each Owner and the Association shall have the irrevocable right, to be exercised by the Manager, the Executive Board or officers or employees of the Association, to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, or at any hour for making emergency repairs, maintenance or inspection therein necessary to prevent damage to the Common Elements or another Unit. In the event insurance proceeds under this Declaration are payable to an Owner but the maintenance responsibility of the area to which such proceeds relate is the Association's, the Association shall complete any such repair or replacement at the Owner's cost.

**7.6 Limited Common Element Damages.** In the event of damage or destruction of a Limited Common Element from any cause other than the negligence or tortuous acts of an Owner or Owner's Agent, the then Owners of the Units to which the Limited Common Element is attributable shall bear equally the expense to repair or rebuild the Limited Common Element to its previous condition. The Owner shall bear the cost of such damage to the extent of such Owner's or Owner's Agent's negligence.

**7.7 Association Power.** The Association shall have the right and power to prohibit storage or other activities deemed unsafe, unsightly, unreasonably noisy or otherwise offensive to the senses and perceptible from another Unit or the Common Elements. No Owner shall make any addition or other alteration to any portion of the Common Elements, no matter how minor, without the express written consent of the Executive Board.

**7.8 Alterations.** No Owner shall alter, modify, remove or destroy any Common Element without the prior written consent of the Executive Board, except for room partitions and dividers located within a Unit which are not load-bearing and which do not contain any utility service lines or ducts. All alterations made to the Common Elements must be performed under the supervision of an architect or other qualified person approved by the Association, with approval of any governmental authority having jurisdiction thereof, and performed in a good and workmanlike manner. Alteration work shall be completed as rapidly as possible and in such a manner as to not interfere with the use and occupancy of any other Unit and of the Common Elements of the Buildings. An Owner owning two or more Units contiguous to each other shall have the right to combine such Units by common doorways or stairs and stairways, provided, however, that the plans, specifications and performance of work in combining such Units must be approved in writing by the Association. In like manner, the relocation of any balcony must be approved in writing by the Association. No balcony on any floor of the Buildings may be enclosed in any fashion other than as originally constructed, without such approval.

## VIII

### INSURANCE

**8.1 Insurance Coverage.** The Association shall obtain and pay, as a Common Expense, the premium for insurance on the Buildings and related improvements in an amount equal to the maximum insurable replacement value thereof, affording protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as may from time to time be customarily insured against with respect to buildings similar in construction, location and use as the Buildings, including by way of example, vandalism and malicious mischief. In addition, the Association may insure the furnished interior of all Units. The Association shall determine at least annually the replacement value of the Buildings and in so doing may employ such experts as it may deem necessary. The Association shall also obtain and pay, as a Common Expense, the premiums for public liability and, if applicable, workmen's compensation insurance and may obtain and pay the premiums for such other types of insurance as it deems necessary or desirable. Each Owner may obtain and pay the premium for insurance coverage of the contents of his Unit in his discretion. Each Owner's share of the Common Insurance Expense shall be computed by the Association's



insurance underwriter, according to the risk and value assigned to each Unit by such underwriter, and shall not be computed by the Unit's participation in Common Expenses assigned and set forth in this Declaration. Such Common Insurance Expense shall be a Common Expense under Article VI, notwithstanding the differing method of apportionment thereof between the Owners. In no event shall the insurance coverage be less than that specified in Section 313 of the Act.

**8.2 Certificates of Insurance.** A certificate or memorandum of the insurance coverage maintained by the Association shall be furnished by the Association upon request to any Owner or mortgagee of a Unit.

## IX

### DAMAGE AND REPAIR

**9.1 Repair or Reconstruction after Damage.** For the purposes of this Article IX total damage is defined as such damage as to render, in the judgment of the Association, all Units in a Building untenable. Any damage less than total damage as so defined is partial damage for the purposes of this Article IX. Repair or reconstruction as used in this Article IX means restoration of improvements to substantially the same condition which they existed prior to the damage, with each Unit and the Common Elements having substantially the same horizontal and vertical boundaries as before.

**9.2 Insurance Proceeds Sufficient to Repair.** In the event that proceeds from insurance coverage are sufficient to cover the cost of repair or reconstruction after damage to a Building or any part thereof, then such repair or reconstruction shall be promptly performed by the Association, as attorney-in-fact for the Owners.

**9.3 Insurance Proceeds Insufficient to Repair.** If insurance proceeds are insufficient to repair the damaged Building, the following provisions shall govern:

(a) **Partial Damage.** A partial damage to a Building shall be repaired as promptly as possible under the direction of the Association, and any cost of such repair in excess of insurance proceeds shall be assessed against all Owners of the project as a Common Expense.



**(b) Total Damage.** In the event of total damage to the Buildings a special meeting of the Owners of Units in the project shall be held for the purpose of determining whether the reconstruction should be done. If the Owners of a majority of Units in the project vote in favor of reconstruction, then the cost of reconstruction in excess of insurance proceeds shall be assessed against Owners as a Common Expense. If the Owners of a majority of Units do not vote in favor of reconstruction, then the Association shall forthwith sell the entire Condominium Property as attorney-in-fact for the Owners. In such case the insurance proceeds, if any, payable as a result of the damage shall be collected by the Association and after payment of costs of collection thereof and of other outstanding obligations and charges owed by the Association as a result of the damage, the Association shall disburse the insurance proceeds and the proceeds of sale to the Owners in accordance with each Owner's percentage interest in the Common Elements. Such proceeds as may be necessary to satisfy any lien, mortgage or deed of trust against a Unit may be paid out of such Owner's share of proceeds.

**9.4 Power of Attorney.** This Declaration hereby appoints the Association as the irrevocable attorney-in-fact for all Owners to deal with the Condominium Property upon its damage and repair.

## **ARTICLE X**

### **FIRST RIGHT OF REFUSAL**

**10.1** This Declaration creates no right of first refusal in any Owner to purchase any other Unit in the Meadow Vista Condominiums.

## **XI**

### **RESTRICTIONS ON USE AND OCCUPANCY**

**11.1 Use and Occupancy Restrictions.** The following use restrictions apply to all Units and to the Common Elements:

**(a)** The Units shall be used exclusively for residential and home occupation purposes, on condition that only persons who reside in such Unit shall engage in such home occupation. Each home occupation is subject to Association approval to ensure that the peace, quiet and neatness of the

Meadow Vista Condominiums are not diminished by such home occupation. No structures of a temporary character, trailer, tent, shack, or other out building shall be used on any portion of said Land at any time as a residence, either temporarily or permanently, or for the storage of materials or equipment, except to the extent such materials or equipment may be required for the repair of the Buildings or other work being performed on the Real Property.

(b) No activities shall be conducted which, by noise, vibration, dust, fumes or otherwise, would disturb the occupants of another Unit.

**11.2 Animals.** No animals, livestock, or poultry of any kind shall be raised, bred or kept on the Land, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes. No more than one pet of the same species shall be allowed in any Unit. Such household pets shall be adequately maintained and cared for in order to avoid constituting a nuisance to the adjoining Owner.

**11.3 Dogs.** Owners of dogs shall:

(a) Not allow their dogs to bark or otherwise disturb, threaten, scare, injure or otherwise bother any person or any animal;

(b) Immediately clean up the dog's waste; and

(c) At all times control their dogs by leash or voice command.

**11.4 Wood Burning Devices.** Wood burning devices are prohibited.

**11.5 Exterior Appearance.**

(a) The exterior of each Unit shall be kept and maintained in a neat, clean and orderly condition and appearance at all times. No personal property shall be stored outside, except for garden furniture, bicycles and barbeque grills.

(b) The selection of color, type of paint, exterior decoration, and any exterior materials shall be the Association's exclusive responsibility.

(c) To the extent reasonably practicable, the owners shall maintain a uniform exterior appearance to the entire Meadow Vista Condominiums Buildings.





**11.6 Outside Parking.** Outside parking spaces shall be used exclusively for parking functioning automobiles, pickup trucks and sport utility vehicles, which shall be driven under their own power at least once every 14 days. No motorcycle, snowmobile, trailer, motorhome, boat or other personal property shall ever be parked or stored outside on the Land.

**11.7 Basements.** Basements shall not be used as bedrooms or for sleeping.

## XII

### RESTRICTIONS ON ALIENATION

**12.1 Restrictions on Alienation.** A Unit may not be conveyed pursuant to any time-sharing arrangement, including those described in Sections 38-33-110 to 113, Colorado Revised Statutes. All leases and rental agreements shall be in writing and subject to the reasonable requirements of the Executive Board.

## XIII

### EXPANSION AND MODIFICATION

**13.1 Waiver of Right to Expand.** Declarant expressly waives the right to expand this condominium project.

## XIV

### EASEMENTS AND LICENSES

**14.1 Recording Data.** All easements and licenses to which the Condominium is presently subject are recited in **Exhibit A** and/or shown on the Map. In addition, the Condominium may be subject to other easements granted by the Declarant as shown on the Map or as recited in the Attorney's Opinion on the Map.

**14.2 Easements for Encroachments.** Each Unit shall be subject to an easement for encroachment created by construction, settling and overhang as designed or constructed by Declarant, and a valid easement for such



encroachment and for the maintenance of same shall and does exist. If a Condominium Building is partially or totally destroyed and then rebuilt, the Owners of the Units agree that minor encroachments of parts of the adjacent Unit due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

**14.3 Declarant's Rights Incident to Construction.** Declarant, for itself and its successors and assigns, the Association and/or for Owners in all future phases of Meadow Vista Condominiums, hereby reserves an easement for construction, utilities, drainage, ingress and egress over, in, upon, under and across the Common Elements, together with the right to store materials on the Common Elements, to build and maintain temporary walls, and to make such other use of the Common Elements as may be reasonably necessary or incident to any construction of the Units, or improvements on the Property or other properties abutting and contiguous to the Property, provided, however, that no such rights shall be exercised by Declarant in a way which unreasonably interferes with the occupancy, use, enjoyment or access to the Project by the Owners.

**14.4 Utility Easements.** There is hereby created a blanket easement upon, across, over, in and under the Property for the benefit of the Common Elements and the Units and the structures and improvements situated on the Property for ingress and egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone, cable tv and electricity. Said blanket easement includes future utility services not presently available to the Units which may reasonable be required in the future. By virtue of this easement, it shall be expressly permissible for the companies providing utilities to erect and maintain the necessary equipment on any of the Units and to affix and maintain electrical and/or telephone wires, circuits, conduits and pipes on, above, across and under the roofs and exterior walls of the improvements, all in a manner customary for such companies in the area surrounding the Property, subject to approval by the Association as to locations.

**14.5 Reservation of Easements, Exceptions and Exclusions.** The Association is hereby granted the right to establish from time to time, by declaration or otherwise, utility and other easements, permits or licenses over the Common Elements for the best interest of all the Owners and the Association. Each Owner is hereby granted a perpetual non-exclusive right of ingress to and egress from the Owner's Unit over and across the General

Common Elements and Limited Common Elements appurtenant to that Owner's Unit, which right shall be appurtenant to the Owner's Unit, and which right shall be subject to limited and reasonable restriction on the use of Common Elements set forth in writing by the Association, such as for closure for repairs and maintenance.

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

**14.7 Support Easement.** Each Unit is subject to a blanket easement for support and a blanket easement for the maintenance of structures or improvements presently situated or to be built in the future on the Property or any Expansion Property.

## XV

### RIGHTS RESERVED TO DECLARANT

**15.1 Special Declarant Rights.** The Declarant and specifically reserves the right to exercise in any order all Development Rights and Special Declarant Rights as set forth in the Colorado Common Interest Ownership Act and this Declaration for the maximum time limit allowed by law, or for twenty (20) years following the recording hereof, whichever occurs first, including, without limitation, the following:

(a) The right to appoint or remove any officer of the Association or any Executive Board Member of the Association during the Declarant Control Period.

(b) The right to complete or make any improvements as set forth on the Map, or as required by Crested Butte South Property Owners Association and/or Gunnison County.

(c) The right to maintain signs to advertise the project.

(d) The right to dedicate a future public or private easement as shown on the Map.



(e) The right to appoint the members of the Executive Board during the period of Declarant control. The period of Declarant control shall terminate no later than the earlier of (i) 60 days after the conveyance of 75% of the Units to Owners other than the Declarant, or (ii) 2 years after Declarant has last conveyed a Unit within the ordinary course of business. Further, not later than 60 days after the conveyance of 25% of the Units to Owners other than Declarant, at least one member and not less than 25% of the members of the Association's Executive Board shall be elected by the Unit Owners other than Declarant and not later than 60 days after the conveyance of 50% of the Units to Owners other than Declarant, not less than 1/3 of the members of the Association's Executive Board must be elected by the Unit Owners other than Declarant.

(f) The right to maintain a business and sales office, construction facilities, construction equipment, advertising signs and displays and other facilities as may be reasonably necessary, appropriate or customary during the construction, development and sale of all of the Units within the Condominium.

(g) The right, without consent of any Owner or mortgagee or lienholder being required, at any time and from time to time to: (a) complete improvements indicated on the Map, (b) maintain and relocate sales offices, management offices, signs advertising the Project and models, of any size within one or more Units; (c) amend the Map to (i) insure that the language and all particulars that are used on the Map and contained in the Declaration are identical; (ii) establish, vacate and relocate utility easements, access easements, and parking spaces; and (iii) as may be otherwise permitted by the Act; and (d) to exercise any other Declarant rights or development rights provided for herein.

## XVI

### MECHANIC'S LIENS

**16.1 No Liability.** If any Owner shall cause any material to be furnished to his Unit or any labor to be performed therein or thereon, no Owner of any other Unit, nor the Association, shall under any circumstances be liable for the payment of any expense incurred or for the value of any work done or material furnished. All such work shall be at the expense of the Owner causing it to be done, and such Owner shall be solely responsible to



contractors, laborers, materialmen and other persons furnishing labor or materials to his Unit.

**16.2 Indemnification.** If, because of any act or omission of any Owner, any mechanic's or other lien or order for the payment of money shall be filed against the Common Elements or against any other Owner's Unit or an Owner or the Association (whether or not such lien or order is valid or enforceable as such), the Owner whose act or omission forms the basis for such lien or order shall at his own cost and expense cause the same to be cancelled and discharged of record or bonded by a surety company reasonably acceptable to the Association, or to such other Owner or Owners, within twenty (20) days after the date of filing thereof, and further shall indemnify and save all the other Owners and the Association harmless from and against any and all costs, expenses, claims, losses or damages including, without limitation, reasonable attorneys' fees resulting therefrom.

**16.3 Association Action.** Labor performed or materials furnished for the Common Elements, if duly authorized by the Association in accordance with this Declaration or the Bylaws, shall be the basis for the filing of a lien pursuant to law against the Common Elements. Any such lien shall be limited to the Common Elements and no lien may be affected against an individual Unit or Units.

## XVII

### MISCELLANEOUS PROVISIONS

**17.1 Separate Tax Assessment.** Declarant shall advise the Assessor of Gunnison County, Colorado, of the creation of the Condominium so that each Unit shall be deemed a separate parcel of real property and subject to separate assessment and taxation.

**17.2 Compliance with Declaration.** Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation, By-Laws, rules, regulations and resolutions of the Association and any management agreement entered into by the Association as the same may from time to time be in force and effect. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Association in behalf of the Owners, or by an aggrieved Owner.



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

**17.4 Amendment of Declaration.** This Declaration or the Map may not be amended except by the vote of Owners of 67% or more of the Units. Any such amendment shall be effective without the approval of the holders of any mortgages and/or Deeds of Trust encumbering the Units. No amendment shall be effective until approved by Gunnison County, Colorado and placed of record in the office of the Clerk and Recorder of the County of Gunnison, Colorado.

**17.5 Attorneys' Fees.** If any action is brought in a court of law or any arbitration initiated to enforce, interpret, construe or arbitrate this Declaration or any document provided for herein or related hereto, the prevailing party shall be awarded to all reasonable attorneys' fees as well as all costs incurred in the prosecution or defense of such action, including expert witness fees and expenses.

**17.6 Binding Agreement.** This Declaration shall bind and inure to the benefit of the parties hereto and their respective representatives, heirs, successors and assigns.

**17.7 Term.** The covenants and restrictions in this Declaration shall run with and bind the Land in perpetuity, subject to the termination provisions in the Act.

**17.8 Arbitration.** Any deadlock between Owners or members of the Executive Board which has not been resolved within 14 days shall be submitted to arbitration. Each Owner or member of the Executive Board, as the case may be, shall select one individual familiar with condominium management as arbitrator. The arbitrators shall resolve the dispute. In the event the arbitrators are unable to resolve the dispute within 30 days of their appointment, they shall select and designate one additional arbitrator for this purpose, whose decision shall be binding on all parties. In the event that the two arbitrators first appointed are unable to agree upon a third arbitrator, a Judge of the District Court of the County of Gunnison, State of Colorado shall appoint the third arbitrator.





**EXHIBIT A**

**Land**

Lot 10 and 12, Block 4, CRESTED BUTTE SOUTH, SECOND FILING, according to the official plat thereof bearing Reception No. 281588,

County of Gunnison,  
State of Colorado.

**Easements**

**See Map**

**Licenses**

**None**

**EXHIBIT B**

**TABLE OF INTERESTS**

<b>Unit</b>	<b>Percentage Share of <u>Common Elements</u></b>	<b>Percentage Share of Project <u>Common Expenses</u></b>	<b>Vote in the Affairs of <u>Association</u></b>
A	12.5%	12.5%	1
B	12.5%	12.5%	1
C	12.5%	12.5%	1
D	12.5%	12.5%	1
E	12.5%	12.5%	1
F	12.5%	12.5%	1
G	12.5%	12.5%	1
H	12.5%	12.5%	1