

DECLARATION ESTABLISHING
BLACK BEAR LODGE CONDOMINIUMS

Black Bear Lodge, LLC, a Colorado limited liability company, hereinafter referred to as "Declarant," does hereby make 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 2.15 hereinafter. The existing structure (Building) located on the Land is a residential building with related improvements. The location of the Building on the Land and the dimensions thereof are shown on the Map. The Building contains 25 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 In the event the Act is repealed, the Act on the effective date of this Declaration, shall remain applicable.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 by number. Each unit shall have appurtenant thereto the undivided interest in the common elements and common expenses of the association and a portion 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 Building. The Building means the structure 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 all of the Units, Gammon Elements, the Building and the Land as defined herein and in the Plat of Black Bear Lodge 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 Black Bear Lodge, 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 Plat of Black Bear Lodge Condominiums and filed for record with the Clerk and Recorder of the County of Gunnison, Colorado, on 06-20, 2002, Reception No. 52/277, 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.

2.18 Project. Project means the Land and the Building 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.

2.19 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 Building 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 square footage in relation to the square footage of all other units within the project;

(b) the percentage of liability for Common Expenses, on the basis of square footage in relation to the square footage of all other units within the project; and

(c) the number of votes in the Association, on the basis of square footage in relation to the square footage of all other units within the project.

IV

OCCUPATION AND USE

4.1 Division of Condominium into Units. The Condominium is divided into twenty-five (25) 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 Building, or if any such encroachments shall occur hereafter as a result of settling or shifting of the Building, or for any other reason, valid easements shall exist for such encroachments and for the maintenance of the same so long as the Building shall exist. In the event the Building 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 Building 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 "Black Bear Lodge 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 zoning regulations of Mt. Crested Butte, 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 Units adjacent to each other on the same floor or on adjacent floors, such Owner shall have the right, subject to the prior, written approval of the Executive Board, 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

BLACK BEAR LODGE CONDOMINIUMS ASSOCIATION, INC.

5.1 Owners Association. The administration of the Condominium shall be governed by this Declaration and the Articles of Incorporation and the Bylaws of Black Bear Lodge Condominiums Association, Inc. (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.

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 Period of Declarant Control. The "Period of Declarant Control" begins with the appointment of the initial Executive Board and continues until the earlier of: (a) ten (10) 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. 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. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units that may be created to owners other than Declarant, at least one (1) member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units that may be created to owners other than a Declarant, not less than thirty-three and one third percent (33 1/3%) of the members of the Executive Board must be elected by owners other than the Declarant.

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 affirmative vote of the Owners of Units to which at least 51 percent of the votes in the Association are allocated, at a meeting called for that purpose.

5.4 Association Budget. Within thirty days after adoption of any proposed budget for the Association, the Executive Board shall mail, by ordinary first-class mail, or otherwise, deliver a summary of the budget to all the Unit Owners and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing or other delivery of the summary. Unless at that meeting a majority of all Unit Owners or any larger percentage specified in the Declaration 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 Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Executive Board.

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

5.6 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.

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. The Association shall pay all water, sewer and trash charges levied on the individual units and any common elements, in accordance with the ordinances, rules and regulations of the Town of Mt. Crested Butte and the rules and regulations of the Mt. Crested Butte Water and Sanitation District. The Owners of Units in the Building shall be exclusively responsible for approving and paying for all Building maintenance expenses.

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. 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. 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.

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 Owners 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 shall 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, firstclass 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. Responsibility for the maintenance of the Condominium shall be as follows:

(a) By the Owner. The Owner shall maintain and keep in good repair the interior surfaces of walls, ceilings and floors (including carpeting, tile, wallpaper, paint or other covering) as well as all fixtures and appliances, including baseboard heating elements, located within such Owner's Unit and any Limited Common Elements allocated to such Unit. An Owner shall not be responsible for repairs occasioned by damage as defined in Article IX hereinafter, unless such damage is due to the act or negligence of the Owner, his guests, invitees or tenants.

(b) By the Association. The Association shall maintain and keep in good repair all that part of the Building and related improvements not required to be maintained and kept in good repair by an Owner.

7.2 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 Building. An Owner owning two or more Units adjacent to each other on the same floor of the Building or on adjacent floors of the Building 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 Building 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 Building 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 Building, including by way of example, vandalism and malicious mischief. The Association shall determine at least annually the replacement value of the Building 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 the Units in the 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 a Building 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 fifty-one percent (51%) of the Owners in the project vote in favor of reconstruction, then all Owners shall be bound and the cost of reconstruction in excess of insurance proceeds shall be assessed against all Owners as a Common Expense. If fifty-one percent of the Owners 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.

X

FIRST RIGHT OF REFUSAL

10.1 Right of First Refusal. This Declaration vests no right of first refusal in the Association or any Owner to purchase or lease the Unit of any other Owner. An Owner may enter into a separate written right of first refusal.

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) Each Unit may be used or occupied in any manner consistent with the High Density Multiple Family Zoning District of the Town of Mt. Crested Butte, Colorado;

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

11.2 No more than two pets 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(s).

11.3 Owners of dogs shall:

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

11.3.2 Immediately clean up their dog's waste; and

11.3.3 At all times control their dogs by leash or voice command.

XII

RESTRICTIONS ON ALIENATION

12.1 Restrictions on Alienation. A Unit may not be conveyed pursuant to a time-sharing arrangement 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 MODIFICATIONS

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

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 Plat, or as required by the Town of Mt. Crested Butte.

(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 Plat.

(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

MISCELLANEOUS PROVISIONS

16.1 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.

16.2 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.

16.3 Severability. If any of the provisions of this Declaration or any paragraph,

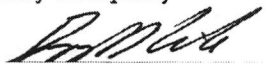
16.5 Attorneys' Fees. It is agreed that if any action is brought in a court of law as to the enforcement or interpretation or construction of this Declaration or any document provided for herein or related hereto, the prevailing party in such action shall be entitled to all reasonable attorneys' fees as well as all costs incurred in the prosecution or defense of such action.

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

16.7 Term. The covenants and restrictions in this Declaration shall run with and bind the Land in perpetuity, subject to the termination provisions in the Colorado Common Interest Ownership Act, Sections 38-33.3-101, et. seq., Colorado Revised Statutes.

IN WITNESS WHEREOF, Declarant has executed this Declaration this
18th day of June, 2002.

Black Bear Lodge, LLC, a Colorado limited
liability company



By:


Gregory D. Cielinski, President of SARSCO, INC., a Texas
corporation, General Partner of Rhombus Royalty Co., Ltd., a
Texas Limited partnership, Managing Member of Black Bear
Lodge, LLC, a Colorado limited liability company

STATE OF COLORADO)
COUNTY OF GUNNISON) ss.

The foregoing instrument was acknowledged before me this 18th day of June,

2002 by Gregory D. Cielinski, President of SARSCO, INC., a Texas corporation, General Partner of Rhombus Royalty Co., Ltd., a Texas Limited partnership, Managing Member of Black Bear Lodge, LLC, a Colorado limited liability company.

Witness my hand and official seal. My commission expires: *Feb. 22, 2003*


Notary Public

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 MY COMMISSION EXPIRES:
 February 22, 2003

EXHIBIT A

Land

Lodge Site 19, LODGE SITES AREA,

EXCEPTING THEREFROM that property platted as Mountain Edge Condominiums, Phase I, Building A, according to the plat thereof recorded August 24, 1981, bearing Reception No. 361770, more particularly described as follows:

A tract of land being a portion of LODGE SITE 19, LODGE SITES AREA, Town of Mt. Crested Butte, County of Gunnison, State of Colorado, lying Easterly of Gothic County Road, Northerly of Castle Road and Westerly of Hunter Hill Road, Lodge Site 19 being platted and recorded on a document titled "Plat of the Lodge Sites Area" in the records of the Gunnison County Clerk and Recorder bearing Reception No. 256818, said tract being more particularly described as follows: Beginning at corner No.1, a point on the right-of-way line of Gothic County Road from whence the center of Section 26, Township 13 South, Range 86 West, 6th P.M. bears S70002'51"W a distance of 1039.34 feet (a brass cap marked "Merrick & Co. 24721973 cen. sec. 26"); thence S74°34'20"E a distance of 100.72 feet; thence S52°25'05"E a distance of 89.75 feet; thence S34°31'38"W a distance of 90.99 feet; thence S29°36'15"W a distance of 72.00 feet to a point on the right-of-way line of Castle Road; thence along Castle Road, 32.27 feet along the arc of a curve to the left having a radius of 86.00 feet and a chord which bears N71°08'55"W, 32.08 feet; thence N81°53'45"W a distance of 27.00 feet; thence continuing along Castle Road 45.82 feet along the arc of a curve to the right having a radius of 33.00 feet and a chord which bears N42°07'W, 42.23 feet; thence continuing along Castle Road 71.14 feet along the arc of a curve to the left having a radius of 79.00 feet and a chord which bears N28°08'10"W 68.76 feet; thence 36.00 feet along the arc of a curve to the right having a radius of 25.00 feet and a chord which bears N12°40'56"W 32.97 feet; thence along Gothic County Road N28°34'15"E a distance of 92.00 feet to the point of beginning; all bearings being referred to true North as determined by solar observation, and to the monumented north boundary line of Chalet Village Addition No.3 (same as South Boundary line of Lodge Site 19).

AND FURTHER EXCEPTING THEREFROM that tract of land conveyed to Mountain Edge Condominium Association, Inc., a Colorado corporation in Special Warranty Deed recorded December 23, 1993 in Book 737 at Page 523, within the NE1/4 of Section 26, Township 13 South, Range 86 West, 6th P.M., said tract also being within LODGE SITE 19, Town of Mt. Crested Butte, Gunnison County, Colorado, Lodge Site 19 being originally described on a plat of "LODGE SITES AREA" filed for record in Gunnison County on October of 1963 bearing Reception No. 266818, said Lodge Site 19 being more exactly described and located on a plat "AFFIDAVIT OF CORRECTION OF LODGE SITES AREA" as filed for record in Gunnison County on February 16, 1982, bearing Reception No. 365432; said tract being more particularly described as follows:

Commencing at the Southeast corner of said Lodge Site 19; thence along the arc of a curve to the right a distance of 126.91 feet said curve having a radius of 235.28 feet and a long chord of North 04°10'18" West 125.38 feet along the easterly boundary of said Lodge Site 19; thence North 11°16'52" East 98.55 feet along said easterly boundary; thence along the arc of a curve to the left a distance of 135.09 feet said curve having a radius of 104.97 feet and a long chord of North 25°35'10" West 125.96 feet along said easterly boundary; thence North 62°27'15" West 65.99 feet along the northerly boundary of said Lodge Site 19, to the POINT OF BEGINNING for the herein described tract; thence the following courses around said tract: North 62°27'15" West 82.01 feet along northerly boundary of said Lodge Site 19; Along the arc of a curve to the left a distance of 82.25 feet said curve having a radius of 53.00 feet and long chord of South 73°05'32" West 74.24 feet along westerly boundary of said Lodge Site 19; South 28°38'02" West 119.37 feet along said westerly boundary; South 74°34'20" East 100.72 feet along northerly boundary of Mt. Edge Condominiums — Phase I, Building A as platted and recorded on August 24, 1981, and bearing Reception No. 361770 in the records of Gunnison County; South 52°25'105" East 36.38 feet along said northerly boundary of Mt. Edge Condominiums; North 28°38'102" East 156.57 feet to the POINT OF BEGINNING of the herein described tract.

EXHIBIT B**TABLE OF INTERESTS**

| <u>Unit
No.</u> | <u>Percentage
Share of
Common Elements</u> | <u>Percentage
Share of Project
Common Expenses</u> | <u>Vote in the
Affairs of
Association</u> |
|---------------------|--|--|---|
| 101 | 2.7413 | 2.7413 | 2.7413 |
| 102 | 3.5456 | 3.5456 | 3.5456 |
| 103 | 3.2998 | 3.2998 | 3.2998 |
| 104 | 3.3238 | 3.3238 | 3.3238 |
| 105 | 2.9604 | 2.9604 | 2.9604 |
| 106 | 2.7146 | 2.7146 | 2.7146 |
| 201 | 2.7413 | 2.7413 | 2.7413 |
| 202 | 3.3078 | 3.3078 | 3.3078 |
| 203 | 3.3265 | 3.3265 | 3.3265 |
| 204 | 4.7773 | 4.7773 | 4.7773 |
| 205 | 3.6818 | 3.6818 | 3.6818 |
| 206 | 3.3211 | 3.3211 | 3.3211 |
| 207 | 3.3211 | 3.3211 | 3.3211 |
| 208 | 4.6410 | 4.6410 | 4.6410 |
| 209 | 4.4246 | 4.4246 | 4.4246 |
| 210 | 3.3211 | 3.3211 | 3.3211 |
| 301 | 4.3284 | 4.3284 | 4.3284 |
| 302 | 4.4380 | 4.4380 | 4.4380 |
| 303 | 3.0085 | 3.0085 | 3.0085 |
| 304 | 4.7773 | 4.7773 | 4.7773 |
| 305 | 5.1594 | 5.1594 | 5.1594 |
| 306 | 6.2602 | 6.2602 | 6.2602 |
| 307 | 5.2556 | 5.2556 | 5.2556 |
| 308 | 3.9276 | 3.9276 | 3.9276 |
| 401 | 7.3957 | 7.3957 | 7.3957 |
| Total | 100.0000 | 100.0000 | 100.0000 |