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CONDOMINIUM DECLARATION

FOR

SUN MOUNTAIN CONDOMINIUMS

THIS DECLARATION is made this 6th day of August, 1982, by SUN MOUNTAIN ASSOCIATES, a Colorado Partnership, (hereinafter "DECLARANT"), having its principal office at 419 No. Cascade Avenue, Colorado Springs, Colorado 80903.

WITNESSETH:

WHEREAS, DECLARANT is owner of that certain real property situate in the County of Huerfano, State of Colorado, which real property is described as follows:

TRACT 5, PANADERO DEVELOPMENT, FILING NO. 2,
HUERFANO COUNTY, COLORADO

which real property is hereinafter referred to as the "Property"; and

WHEREAS, Declarant, SUN MOUNTAIN ASSOCIATES, desires to establish a condominium project under the Condominium Ownership Act of the State of Colorado; and

WHEREAS, DECLARANT will improve said property by constructing thereon multi-family structures known as THE SUN MOUNTAIN CONDOMINIUMS, consisting of twenty-six (26) separately designated condominium units; and

WHEREAS, DECLARANT does hereby establish a plan for the ownership in fee simple of real property estates consisting of the building area or space contained in each of the air space units, as herein defined, in the building improvements and the co-ownership by the individual and separate owners thereof, as tenants in common, of all of the remaining property which is hereinafter defined and referred to as the "common elements";

NOW, THEREFORE, DECLARANT does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with the land, shall be a burden and a benefit to DECLARANT, its successors and assigns, and any person or entity acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, personal representatives, devisees or assigns.

ARTICLE I.

INTENTION

DECLARANT states that it is the owner in fee simple of the Property and hereby submits the real property above described to the provisions of the Colorado Condominium Act, as such Act may apply to this condominium project.

ARTICLE II.

DEFINITIONS

Certain terms as used in this Declaration shall be defined as follows, unless the context clearly indicates a different meaning therefore:

Section 1. "Association" or "Association of Unit Owners" means THE SUN MOUNTAIN CONDOMINIUM ASSOCIATION, a Colorado non-profit corporation.

Section 2. "Board of Managers" means the Board of Directors of the Association selected, authorized and directed to manage and operate the Association as provided by this Declaration, and Articles and By-Laws of the Association.

Section 3. "Building" shall mean and refer to any building or structure which is part of the improvement located on the Property subject to this Declaration.

Section 4. "Common Elements" shall mean all property (including the improvements thereon) other than the individual air space units, which common elements are designated on the Map.

A. "General common elements" means and includes:

- (1) The land on which the buildings are located;
- (2) The foundations, columns, girders, beams, supports, perimeter and main walls, roofs, entrances and exits of such building or buildings, and sidewalks.
- (3) Any crawl spaces, the yard, parking areas and storage spaces;
- (4) Installation of central services such as light, sewer, water, heating, and in general, all apparatus and installations existing for common use, along with utility to the individual Unit for power, lighting, sewer and water;
- (5) Such community facilities as may be provided for in this Declaration;
- (6) All other parts of the Property necessary or convenient to its existence, maintenance, and safety, or normally in common use.

B. "Limited Common Elements" means that part of the common elements reserved for the exclusive use of the Owner of a condominium unit.

Section 5. "Common Expenses" means and includes:

A. All sums lawfully assessed against the common elements by the Board of Managers;

B. Expenses of administration, operation and managements, maintenance, repair or replacement of the common elements;

C. Expenses declared common expenses by provisions of this Declaration and of the By-Laws of the Association; and

D. Expenses agreed upon as common expenses by the affirmative vote of two thirds (2/3) of the votes of each class of membership.

Section 6. "Condominium Unit" or "Unit" means an individual air space unit, together with the undivided common interest in the common elements as are appurtenant to the air space unit by the terms of this Declaration. The individual air space unit consists of the interior surfaces of the perimeter walls, bearing walls, floors, ceilings, windows and window frames, doors and door frames, and trim, and includes both the portions of the building so described and the space so encompassed.

Section 7. "First Mortgage" shall mean and refer to any unpaid and outstanding mortgage, Deed of Trust, or other

security instrument recorded in the records of the office of the Clerk and Recorder of the County of Huerfano, Colorado, having priority of record over all other recorded liens except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments).

Section 8. "Map" or "Condominium Plat" means and includes the engineering survey of the Property, or phase thereof, locating thereon the individual Units, the building/s, the floor and elevation plans and any other drawing or diagrammatic plan depicting a part of or all of the improvements.

Section 9. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 10. "Owner" shall mean the person or persons who own/s one or more of the Units in fee simple.

Section 11. "Person" shall mean a natural person, a corporation, a general or limited partnership, a joint venture, or any other legal entity.

Section 12. "Property" shall mean the following real property, including all improvements and appurtenances thereon, situate in the County of Huerfano, State of Colorado, to-wit:
Tract 5, Filing No. 2, Panadero Subdivision.

ARTICLE III.

MAP - UNIT AND COMMON ELEMENT DESIGNATIONS

Section 1. Recording of Map. The Map shall be filed for record with the Huerfano County Clerk and Recorder prior to the first conveyance of any condominium unit within the Map. The Map shall consist of and set forth the following:

- A. The legal description of the surface of the land;
- B. The linear measurements and location, with reference to the exterior boundaries of the Property, of the buildings, and all other improvements built or to be built on the Property by DECLARANT;
- C. The floor plans, the designation and the linear dimensions of each Unit;
- D. The elevation plans of the building; and
- E. The elevation plans of the unfinished exterior surface of the floor and each ceiling as established from a datum plane, and the linear measurements showing the thickness of the perimeter walls of the buildings.

Section 2. Division of Property. The Property is hereby divided into the following fee simple estates:

- A. Twenty-six (26) fee simple estates, consisting of twenty-six (26) separately designated residential condominium units, each such unit identified by number and designation on the Map; and
- B. The remaining portion of the Property shall be referred to as the common elements, and shall be held in common by the Owners. Each Owner of each condominium unit shall own a 3.846 percent undivided interest in the common elements.
- C. A portion of the common elements is set aside and reserved for the exclusive use of the Owners of the respective condominium units, as such areas shall be known as the

"limited common elements." The limited common elements so allocated and reserved are described, located and shown on the Map by legend, symbol or words. All limited common elements shall be used in connection with the particular condominium unit to the exclusion of the use thereof by the other Owners except by invitation.

D. Each individual air space unit and the undivided interest in the common elements appurtenant thereto shall together comprise one (1) condominium unit which shall be inseparable and may be conveyed, leased, devised or encumbered only as a condominium unit. Each Owner shall be entitled to the exclusive ownership and possession of his individual air space unit and appurtenances limited common elements subject only to easements, restrictions, reservations, and covenants of record; zoning and land use laws, ordinances, and regulations; this Declaration; the By-Laws of the Association; and the rules, regulations, resolutions and decisions adopted pursuant to this Declaration and the Articles and By-Laws of the Association.

Section 3. Unit Description for Recording. Every deed, lease, mortgage, trust deed, Will, or other instrument may legally describe a condominium unit by its identifying unit number, followed by the words: "SUN MOUNTAIN CONDOMINIUMS" without further reference to the Map thereof filed for record and the recorded Declaration. Every such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber or otherwise affect, not only the individual air space unit, but also the common elements appurtenant thereto. Each such description shall be construed to include a non-exclusive easement for ingress and egress, for use of the general common elements, together with the restricted right to the use of the limited common elements.

Section 4. Common Elements Undivided. The common elements shall be owned in common by all of the Owners of the units and shall remain undivided, and no Owner shall bring any action for partition or division of the common elements, including that portion of the common elements designated as limited common elements. 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 the other Owners. The common elements may include a covered pavilion area for the recreational use of the Owners and their guests, subject to such use rules as may be imposed by the Board of Managers. No fee in addition to the regular assessment will be charged for the use of such facility, if constructed.

The rights and easements of enjoyment created hereby in the common element shall be subject to the following:

A. The right of the Association to promulgate and publish rules and regulations which each Member shall comply with;

B. The right of the Association to suspend the voting rights of a Member for any period during which any assessment against his Unit remains unpaid for a period of thirty (30) days or more, and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations;

C. The right of the Association to grant permits, licenses and easements for public utilities, or for other public purposes consistent with the intended use of the common elements and reasonably necessary or useful for the proper maintenance or operation of the Property or the Association;

D. The right of the Association to close or limit the use of the common elements while maintaining, repairing and making replacements in the common elements; and

E. The right of individual Owners to the exclusive use of their respective limited common element, subject, however, to the Association's rights in Paragraphs C and D above.

Section 5. Methods of Unit Ownership. A condominium unit may be held and owned by more than one (1) person as joint tenants or as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Colorado, including time share estates. Where a unit is held and owned by more than one (1) person, all obligations of Owners contained in this Declaration shall be joint and several as to such persons.

Section 6. Notice to Assessor. Declarant shall give written notice to the assessor of Huerfano County, Colorado of the creation of the condominium ownership of this Property, as is provided by law, so that each condominium unit, consisting of the individual air space unit and its percentage of undivided interest in the common elements, shall be deemed a separate real property estate, and subject to separate assessment and taxation.

ARTICLE IV.

COVENANTS AND RESTRICTIONS

Section 1. Use of Units. Each Unit shall be used and occupied solely for the purpose of lodging or as a dwelling by the Owners or by the Owner's family, guests, agents, employees, invitees, licensees, or tenants; provided, however, that Declarant shall be entitled to use one (1) or more Units as a sales office or model Unit until such time as all Units have been sold to other parties.

The Owners of the Unit shall have the right to lease same provided that said lease is made subject to the covenants and restrictions contained in this Declaration and further subject to the Articles and By-Laws of the Association.

Section 2. Owners' Maintenance Responsibility of Units. For purposes of maintenance, repair, alteration and remodeling, an owner shall be deemed to own the interior non-supporting walls, the materials (such as, but not limited to, plaster, gypsum dry wall, paneling, wallpaper, paint, wall and floor tile, and flooring but not including the sub-flooring) making up the finished surfaces of the perimeter walls, ceilings and floors within the unit, including unit doors and windows. The Owner shall not be deemed to own lines, pipes, wires, conduits or systems (which for brevity are herein and hereafter referred to as utilities) running through his unit which serve one or more other units, except as a tenant in common with the other owners. Such utilities shall not be disturbed or relocated by an owner without the written consent and approval of the Board of Managers. Such right to repair, alter, and remodel is coupled with the obligation to replace any finishing or other materials removed with similar or other types or kinds of materials. An owner shall maintain and keep in repair the interior of his own Unit, including the fixtures thereof. 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 thereof. An owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement or hereditament. All other maintenance or repairs to any limited common element, except as caused or permitted by the Owner's negligence, misuse, or neglect thereof, shall be a common expense of all of the owners.

Section 3. Mechanic's Lien. No labor performed or materials furnished and incorporated in a condominium Unit with the consent or at the request of the Unit Owner or his agent or his contractor or subcontractor shall be the basis for filing of a lien against the condominium Unit of any other Unit Owner not

expressly consenting to or requesting the same, or against the common elements. Each Owner shall indemnify and hold harmless each of the other Owners from and against the Unit of any other Owner or against the common elements for construction performed or for labor, materials, services or other products incorporated in the Owners Unit in any matter in which a mechanic's lien would attach under the Colorado Mechanic's Law. The provisions herein contained are subject to the rights of the Board of Managers to enter and make repairs necessary to prevent damage to the common elements or to another Unit or Units, as provided in Section 4 below.

Section 4. Access - Certain Common Expenses. The Association shall have the irrevocable right, to be exercised by the managing agent or Board of Managers 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 assessable therefrom, or for making emergency repairs therein necessary to prevent damage to the common elements or to another Unit. Damage to the interior or any part of a Unit resulting for the maintenance, repair, 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 be a Common Expense of all of the Owners provided, however, that if such damages is the result of the negligence of a Unit owner, the such Unit Owner shall be responsible for all of such damage. Restoration of the damaged improvements shall be substantially the same as the condition in which they existed prior to the damage.

Section 5. Liens on Common Elements Waived. While the Property remains subject to this Declaration, no liens of any nature shall arise or be created against the common elements, except with the unanimous consent in writing of all of the Unit Owners and the holders of prior liens thereon, except such liens as may arise or be created against the several Units and their respective common interests. Every agreement for the performance of labor of the furnishing of materials to the common elements, whether oral or in writing, should provide that it is subject to the provision of this Declaration and the right to file a mechanic's lien by reason of labor performed or materials furnished is waived.

Section 6. Construction on Common Elements Limited: No construction shall be permitted on the General or Limited Common Elements without the express written approval of, and under conditions approved by, the Board of Managers.

Section 7. Signs: Erection of signs will be limited to two (2) condominium identification signs, those necessary for safety and parking control, and any community activity signs. Such signs shall be approved by either Declarant or the Board of Managers of SUN MOUNTAIN CONDOMINIUMS. No other sign shall be displayed to the public view.

ARTICLE V.

CONDOMINIUM ASSOCIATION

Section 1. Membership. Every person or entity who is a record Owner of a fee or undivided fee interest in any Unit which is subject by this Declaration to assessment by the Association, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one (1) membership per Unit. Membership shall be appurtenant to and may not be separated from ownership of any Unit which is subject

to assessment by the Association. Ownership of such Unit shall be the sole qualification for membership.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all those Owners as defined in the Declaration with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each Unit in which they hold the interest required for membership. When more than one (1) person holds such interest in any Unit all such persons shall be Members. The vote for any such Unit shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any one Unit.

Class B. The Class B membership shall be the Declarant as defined in the Declaration. The Class B membership shall be entitled to four (4) votes for each Unit in which it holds the interest required for membership, provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class membership equal the total votes outstanding in the Class B membership; or
- (b) on July 1, 1985.

Section 3. Voting Rights Suspended for Unpaid Assessments. No Member shall in any event be entitled to vote with respect to a Unit in which any assessment with respect to such unit is unpaid and in arrears for a period of thirty (30) days or more at the time of such meeting, or action without a meeting.

Section 4. Association. The administration and operation of the Property shall be governed by this Declaration, the Articles of Incorporation and the By-Laws of the Association, including any rules and regulations promulgated by the Board of Managers within their powers.

Section 5. Board of Managers. The affairs of the Association shall be managed by its Board of Directors which is also referred to as the Board of Managers. The Board of Managers shall have charge of and be responsible for and is authorized to manage the affairs of the Association, the common elements, and other assets held by it on behalf of the Owners, except as herein otherwise limited. It shall have all of the powers, rights, duties and obligations where set forth in this Declaration, or in the Articles of Incorporation and By-Laws of the Association. It shall adopt and execute all measure of proceedings necessary to promote the interests of the Property and the Owners. It shall fix charges, assessments and fees. It shall hold all of the foregoing and funds or other assets of the Association and administer them as trustees for the benefit of the Owners. It shall keep accurate records and audit and collect bills. It shall direct all expenditures, select, appoint, remove and establish the salaries of employees of the Association and fix the amount of bonds for officers and employees. It shall maintain the common elements and other portions of the buildings as herein specified, paying for services and supervising repairs and alterations. It shall pass upon the recommendations of all committees and adopt rules and regulations as in this judgment may be necessary for the management, control and orderly use of the common elements, and in general, it shall manage the common elements as provided herein and in the By-Laws, but nothing

herein shall prevent the Board of Managers from employing professional management.

Section 6. Limitation of Liability. Members of the Board of Managers, in contracting or otherwise acting for the Association within the scope of Association business, shall have no personal liability on any contract or commitment (except as Owners), and the liability of any Owner on any such contract or commitment shall be limited to his percentage share of the Common Expenses. The Board of Managers shall have no liability to the Owner for error judgment or otherwise, except for willful misconduct or bad faith. It is discretionary with the Board of Managers whether its Members shall be bonded for this purpose. Each member of the Board of managers shall be indemnified by the Owners against all expenses and liabilities including attorney's fees reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reasons of his being or having been a Member of the Board of Managers, or any settlement hereof, whether or not he is a Member of the Board of Managers at the time such expenses are incurred, except in such cases wherein the Member of the Board of Managers is adjudged guilty of willful misfeasance or malfeasance or bad faith in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Board of Managers approves such settlement and reimbursement as being in the best interests of the Board of Managers.

Section 7. Association's Responsibility with Respect to Common Elements. It shall be the responsibility of the Association to maintain, repair or replace:

A. All portions of the Unit which contribute to the support of the building, including main bearing walls, but excluding painting, wall papering, decorating or other work on the interior surfaces of walls, ceilings and floors within the Unit.

B. All portions of the Unit which constitute a part of the exterior of the building.

C. All common elements.

D. All incidental damages caused by work done by direction of the Board of Managers.

E. In the performance of any labor or in the furnishing of any material to a Unit, under the director of the Board of Managers, no lien shall be established or give rise to the basis for filing a mechanic's lien against the Unit Owner except such work performed for emergency repair.

Nothing herein contained shall prevent such mechanic's lien being filed against a Unit Owner who expressly consents and requests in writing that work be done.

ARTICLE VI.

CHARGES - ASSESSMENTS

Section 1. Creation of Obligation. Common Expenses are hereby assessed against each Unit, and the Owners thereof, in accordance with this Declaration. No Owner may exempt himself from the liability for payment of his common charges and expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his Unit. The common expenses shall be charged by the Association to the Owners, according to their respective common interest percentages as set forth in Section 2, ARTICLE III hereof. Assessments against the Owners shall be made and approved by the Board of Managers and shall be paid by the

Owners and each owner shall be liable for his share of the common charges, except as otherwise provided in this Article. Multiple Owners of a Unit shall be jointly and severally liable for Common Expenses and assessments pertaining to their Unit.

Section 2. Procedures. Within thirty (30) days prior to the beginning of each calendar year, the Board of Managers shall estimate the net charges to be paid during each year (including a reasonable provision of contingencies and replacements and less any expected income and any surplus from the prior year's fund). Said "estimated cash requirement" shall be assessed to the Owners pursuant to this Article. If said sum estimated proves inadequate for any reasons, including non-payment of any Owner's assessment, the Board of Managers may at any time levy a further assessment, which shall be assessed to the Owners in like proportions, unless otherwise provided in this Declaration. Each Owner shall be obligated to pay assessments made pursuant to this Declaration to the Board of Managers in equal monthly installments on or before the first day of each month during such year, or in such other reasonable manner as the Board of Managers shall designate. All funds collected hereunder shall be expended for the purposes designated in this Declaration and the By-Laws. The omission by the Board of managers, before the expiration of any year, to fix the assessment hereunder for that or the next year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the Owners from the obligation to pay the assessments, or any installments thereof for that or any subsequent year, but the new assessment fixed for the preceding year shall continue until a new assessment is fixed.

Section 3. Common Expenses. The assessment for Common Expenses shall be based upon the estimated and actual cash requirements of the payment of all expenses growing out of or connected with the maintenance and operation of the common elements, which sum may include, among other things, expenses of management, taxes and special assessments until separately assessed, premiums for fire insurance and extended coverage and vandalism and malicious mischief insurance, casualty and public liability, and premiums for any other insurance purchased by the Association or the Declarant, landscaping and care of grounds, common lighting, repairs and renovations, maintenance of the utilities, driveways and parking areas, snow removal, trash collections, wages, utility charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Board of Managers under or by reason of this Declaration, the payment of any deficit remaining from a previous period, the creation of a reasonable contingency or other reserve or surplus fund, as well as other costs, expenses, and special assessment, relating to the common elements or relating to the maintenance rights and obligations as further set forth in these Declarations. Taxes, assessments, water rates and sewer rates which may be levied against the Property before separate assessment for each Lot is made with respect to that phase, shall be paid by the Board of Managers and shall be included in the budget and paid by the Owners as a common charge.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the common element, including fixtures and personal property related thereto, provided that any such construction, reconstruction, repair or replacement of a capital improvement whose cost, as estimated by the Board of Managers, is estimated to exceed \$10,000.00, shall have the assent to two-thirds (2/3) of the

votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Working Capital. The Association or Declarant may require the first Owner of each Unit, who purchases that Unit from Declarant, to make a nonrefundable contribution to capital of \$200.00 with the Association, which sum shall be held, without interest, by the Association as and for working capital. Such deposit shall not relieve an Owner from making the regular payment of assessments as the same becomes due. Upon the transfer of his Unit, an Owner shall be entitled to a credit from his transferee from the aforesaid contribution to capital. Declarant shall be exempt from the contribution in this Section.

ARTICLE VII.

DEFAULTS, - COMPLIANCE - LIENS

Section 1. Default in Assessments and Charges. Each monthly assessment and each special assessment shall be a separate, distinct and personal debt and obligation of the Owner against whom the same is assessed at the time the assessment is made, and shall be collected as such. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing the same. Assessments not paid within thirty (30) days of the mailing or delivery of notice of the assessment shall bear interest at the rate of 12% per annum from the 31st day after the delivery or mailing of such notice, until paid or collected.

Section 2. Lien for Non-Payment. All sums assessed but unpaid for the share of Common Expenses and assessments, including all fees chargeable under this Section, chargeable to any Owner and Unit shall constitute a lien on such Unit superior (prior) to all other liens and encumbrances, except only for:

A. Tax and special assessment liens on the Unit in favor of any governmental agency; and

B. Encumbrance on the Owner's condominium Unit recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

To evidence such lien, the Board of Manager may, but shall not be required to, prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the condominium Unit and a description of the condominium Unit. Such a notice shall be signed by one of the Board of Managers or by the managing agent and may be recorded in the office of the Clerk and Recorder of the County of Huerfano, Colorado. Such lien for Common Expenses shall attach from the date of the failure of payment of the assessment, subject to the priority of any other liens or encumbrances as stated in Subparagraph A and B above. Such lien may be enforced by foreclosure of the defaulting Owner's condominium Unit by the Association in like manner as a mortgage or real property, or otherwise as allowed by law, upon the recording of a notice or claim thereof. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice of such claim or lien, and all reasonable attorney's fees. Reasonable costs and attorney's fees of any collection process, whether by foreclosure, suit, or otherwise, to enforce delinquent common charges and assessments, shall be an additional expense payable by the delinquent Owner. The Owner shall also be required to pay to the Association the monthly assessment for the condominium Unit during the period of foreclosure and the Association shall be entitled to a receiver to collect the same. The Association shall have the power to bid on the condominium Unit at a foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

Section 3. Encumbrancer May Pay Expenses - Reports:

Any encumbrancer holding a lien on a condominium Unit may pay, but shall not be required to pay, any unpaid Common Expenses payable with respect to such Unit and, upon such payment, such encumbrancer shall have a lien on such Unit for the amounts paid of the same rank as the lien of his encumbrance. The Association shall report to the mortgagee of a condominium Unit any unpaid assessment remaining unpaid for longer than sixty (60) days after the same are due. Upon payment of a reasonable fee not to exceed TWENTY FIVE DOLLARS (\$25.00), and upon written request of any Owner or any mortgagee or prospective mortgagee of a condominium Unit, the Association by its Board of Managers shall issue a written statement setting forth the amount of unpaid Common Expenses, if any, with respect to the subject Unit, the amount of the current monthly assessment and the date that such assessment become due, credit for advanced payment or for pre-paid items, including, but not limited to, insurance premiums, which statement shall be conclusive upon the Association in favor of all persons who relied thereon in good faith. Unless such statement of indebtedness shall be furnished within fifteen (15) days of such written request, all unpaid Common Expenses which become due prior to the date of making such request shall be subordinated to the lien of the person requesting such statement.

Section 4. Application of Unpaid Assessments to Grantees and Purchases at Judicial or Foreclosure Sales: The Grantee, or Purchaser at a judicial or other foreclosure sale, of a Unit shall be jointly and severally liable with the Grantor for all unpaid assessments against the latter for his proportionate share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the Grantees right to recover from the grantor the amounts paid by the Grantee therefore; provided, however, that upon payment of a reasonable fee, not to exceed TWENTY FIVE DOLLARS (\$25.00) and upon written request, any such prospective Grantee shall be entitled to a statement from the Board of Managers setting forth the amount of the unpaid assessments, if any, with respect to the subject Unit, the amount of the current monthly assessment and the date such assessment becomes due credit for advanced payments or for pre-paid items, including, but not limited to, insurance premiums, which shall be conclusive upon the Association. Unless a statement of indebtedness shall be furnished within fifteen (15) days of such request, then such Grantee shall not be liable for, nor shall the condominium Unit conveyed be subject to a lien for any unpaid assessments against the subject Unit.

Section 5. Subordination of Common Expenses Lien to First Mortgagees. Notwithstanding all other provisions hereof:

A. The liens created hereunder on any condominium Unit shall be subject and subordinate to, and shall not affect the rights of the holder of the indebtedness secured by any recorded First Mortgage upon such interest made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien created pursuant to this Article VII and Article VI of this Declaration on the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as a holder of a certificate of purchaser after the date of such foreclosure sale, or as an Owner subsequent to the expiration of any redemption periods, which said lien, if any claimed, shall have the same effect and be enforced in the same manner as provided herein;

B. No amendment to this Paragraph shall affect the rights of the holder of any such mortgage recorded prior to recordation of such amendment who does not join in the execution thereof;

C. By subordination agreement executed by a majority of the Board of Managers, the benefits of Subparagraphs A and B above may be extended to mortgages not otherwise entitled thereof.

Section 6. Compliance and Default. Each Unit Owner shall be governed by and shall comply with the terms of this Declaration, and the By-Laws, regulations, resolutions and decisions adopted pursuant thereto as they may be amended from time to time. A default shall entitle the Board of Managers or other Unit Owners to the following relief:

A. Failure to comply with any of the same shall be grounds for an action to recover sum due, for damages or injunctive relief or both maintainable by the Board of Managers on behalf of the Unit Owners, or in a proper case, by an aggrieved Unit Owner. In any case of flagrant or repeated violation by a Unit Owner, he may be required by the Board of Managers to give sufficient surety or sureties for his future compliance with the By-Laws, rules, resolutions and decisions.

B. Each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, to the extent that such expense is not met by the proceeds of insurance carried by the Board of Managers. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

C. In any proceeding arising because of an alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceedings and such reasonable attorney's fees as may be determined by the Court.

D. The failure of the Board of Managers or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Condominium Documents shall not constitute a waiver of the right of the Board of Managers or Unit Owner to enforce such right, provision, covenant, or condition in the future.

E. All rights, remedies, and privileges granted to the Board of Managers, its designated agent, or a Unit Owner pursuant to any terms, provisions, covenants, or conditions of the Condominium Declarations, and Association By-Laws, resolutions, regulations and decisions, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such party the above referenced Condominium Documents or at law in equity.

ARTICLE VIII.

INSURANCE

Section 1. Generally. Except title insurance, builder's risk insurance and any other insurance which may be furnished by the Declarant during construction, the Board of Managers shall obtain and maintain, to the extent available, insurance on the condominium building and all other insurable improvements upon the land, including but not limited to, all of the Units, and the machinery and equipment and all other personal property as may be held and administered by the Board of Managers of for the benefit of the Unit Owners covering the interest of the Association, the Board of Managers, and all Unit Owners and their mortgagees as their interest may appear.

Section 2. Master Policy - Certificates. The Board of Managers shall obtain master policies of insurance which shall provide that the loss thereunder shall be paid to the Board of Managers as insurance trustees under this Declaration. Under the said master policies, certificates of insurance shall be issued which indicate on their fact that they are a part of such master policies of insurance covering each and every Unit of the condominium and its common elements. A certificate of insurance with proper mortgagee endorsements shall be issued to the Owner of each Unit and the original thereof shall be delivered to the mortgagee, if there be one or retained by the Unit Owner if there is not mortgagee. The certificate of insurance shall show the relative amount of insurance covering the Unit and the interest in the common elements of the condominium property and shall provide that improvements to a Unit or Units which may be made by the Unit Owner or Owners shall not affect the valuation for the purposes of this insurance of the buildings, and other improvements upon the land. Such master insurance policies and certificates shall contain provisions that the insurer waives the right to subrogation as to any claims against the Board of Managers, its agents and guests, and of any defense based upon the invalidity arising from the acts of the insured, and providing further that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Unit Owners as hereinafter permitted. A memorandum of the master policy shall be deposited with any First Mortgagee who may require same. The Board of Managers acting for the Association shall pay, for the benefit of the Unit Owners, and each Unit mortgagee, the premiums for the insurance required to be carried hereunder.

Section 3. Coverage

A. Casualty or physical damage insurance in an amount equal to the full replacement value of the condominium building as determined annually by the Board of Managers with the assistance of the insurance company affording such coverage. Such coverage shall afford protection against the following:

i. Loss or damage by fire and other hazards covered by the standard extended coverage endorsement together with coverage for the payment of Common Expenses with respect to damaged Units during the period of reconstruction.

ii. Such other risks as from time to time customarily shall be covered with respect to building similar in construction. Location and use as the condominium buildings, including but not limited to, vandalism, malicious mischief, windstorm and water damage, boiler and machine explosion or damage, glass damage, and such other insurance as the Board of Managers may determine. The policies providing such coverage shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable with the approval of the Board of Managers or where in conflict with the terms of this Declaration, and shall further provide that the coverage thereof shall not be terminated for non-payment of premiums without thirty (30) days notice to all of the insured, including each Unit mortgagee.

All policies of casualty or physical damage insurance shall provide that such policies may not be cancelled or substantially modified without at least thirty (30) days prior written notice to each of the Unit Owners, the Association, and all mortgagees of the

Units, whose addresses are shown in the "Mortgagees of the Units" book or similar record maintained by the Association.

B. Public liability insurance in such amounts and in such forms as shall be required by the Board of Managers, but in no case less than TWO MILLION DOLLARS (\$2,000,000.00) per accident, per occurrence, including but not limiting the same to water damage, legal liability, hired automobiles, non-owned automobile and off premises employee coverages.

C. Workmen's compensation insurance to meet the requirements of law.

D. Fidelity insurance covering those employees of the Association and those agents and employees hired by the Association to handle condominium funds, in amounts as determined by the Board of Managers.

E. Collision insurance, where applicable, as determined by the Board of Managers.

4. Units Owner's Insurance. Each Unit Owner may obtain additional insurance at his own expense affording coverage upon his personal property and for his personal liability, but all such insurance shall contain the same waiver of subrogation as that referred to in the preceding Paragraph 2 hereof. Each Unit Owner may obtain casualty insurance at his own expense upon his Unit but such insurance shall provide that it shall be without contribution as against the casualty insurance purchase by the Board of Manager or shall be written by the same carrier. If a casualty loss is sustained and there is a reduction in the amount of the proceeds that would otherwise be payable on the insurance purchased by the Board of Managers pursuant to the preceding section due to proration of insurance purchased by the Unit Owner under this section, the Unit Owner agrees to assign the proceeds of this latter insurance, to the the extent of the amount of such reduction, to the Board of Managers to be distributed as herein provided.

5. Payment of Premiums: Premiums upon insurance policies purchased by the Board of Managers shall be paid by it and charged as Common Expenses.

6. Delegation of Rights: Each Unit Owner shall be deemed to have delegated to the Association and the Board of Managers his rights to adjust with the insurance companies all losses under policies purchased by the Association.

7. Distributions - Mortgagees: In no event shall any distribution of proceeds be made by the Association directly to a Unit Owner where there is a mortgagee endorsement on the certificate of insurance. In such event any remittances shall be to the Unit Owner and his mortgagee jointly. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by him.

ARTICLE IX.

RECONSTRUCTION OR REPAIR OF CASUALTY

DAMAGE - OBSOLESCENCE AND DISPOSITION

Section 1. Reconstruction of Improvements: In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvements(s), shall be applied by the Association as attorney-in-fact to such reconstruction and the improvement(s) shall be promptly repaired and reconstructed. The Association shall have full

authority, right and power as attorney-in-fact to cause the repair and restoration of the improvement(s).

Section 2. Reconstruction if Insurance Proceeds Insufficient: If the insurance proceeds are insufficient to repair and reconstruct the improvement (s), such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact, using the proceeds of insurance the proceeds of an assessment to be made against all of the Owners and their condominium Units. Such deficiency assessment shall be a common expense and made prorata according to each Owner's percentage interest in the general common elements, and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of the improvement(s) using all of the insurance proceeds of such purpose, notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his condominium Unit, and may be enforced and collected as is provided in Article VII. In addition thereto, the Association as attorney-in-fact shall have the absolute power and right to sell the condominium Unit of any Owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium Unit of the delinquent Owner shall be sold by the Association as attorney-in-fact pursuant to the provisions of this paragraph. The delinquent Owner shall be required to pay to the Association the costs and expenses for filing the notices, interest on the amount of the assessment, and all reasonable attorney's fees. The proceeds derived from the sale of such condominium Unit shall be sued and disbursed by the Association, as attorney-in-fact, in the following order:

- A. For payment of taxes and special assessment liens in favor of any assessing entity and customary expenses of sale;
- B. For payment of the balance of the lien of any first mortgage.
- C. For payment of unpaid Association assessments and all costs, expenses, and fees incurred by the Association;
- D. For payment of junior liens and encumbrances in order of and to the extent of their priority; and
- E. The balance remaining, if any, shall be paid to the condominium Unit Owner.

Section 3. Damage More Than Sixty Percent. Notwithstanding the provisions of Section 2 above, if the insurance proceeds are insufficient to repair and reconstruct the damaged improvement(s), and if such damage is more than sixty percent (60%) of all of the condominium Units (all of the property not including the land), the Owners, with the approval or consent of two thirds (2/3) of the First Mortgagees (based upon one vote for each first mortgage owner), may agree within one hundred (100) days after such damage to sell the entire premises. If such agreement is reached, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's president and secretary or assistant secretary, the entire remaining premises shall be sold by the Association, pursuant to the provision of this paragraph, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration, the map and the By-Laws. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the

Association according to each Owner's percentage interest in the general common elements, and such divided proceeds shall be paid into separate accounts, each such account shall be in the name of the Association, and shall be further identified by the condominium Unit designation and the name of the Owner. From each separate account the Association, as attorney-in-fact, shall forthwith use and disburse the total amount (of each) of such account, without contribution from one account to another, toward the partial or full payment of the lien of any first mortgage against the condominium Unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds derived from the sale of the entire property. Such apportionment shall be based upon each condominium Unit Owner's percentage interest in the general common elements. The total funds of each account shall be used and disbursed without contribution from one account to another, by the Association as attorney-in-fact for the same purposes and in the same order as is provided in Subparagraphs A through E of Section 2 of this Article IX.

Section 4. Agreement to Renew or Reconstruct. The owners representing an aggregate ownership interest of two-thirds (2/3) or more of the common elements may agree that the common elements are obsolete and adopt a plan for the renewal and reconstruction, which plan has the unanimous approval of two-thirds (2/3) of the first mortgagees of record at the time of the adoption of such plan (based upon one vote for each first mortgage owned). If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the owners as common expenses; provided, however, that an owner not a party to such a plan for renewal or reconstruction may give written notice to the Association within fifteen days after the date of adoption of such plan that such unit shall be sold by the owner and shall be purchased by the Association for the fair market value thereof. The Association shall then have thirty days (thereafter) within which to cancel such plan. If such plan is not cancelled, the condominium unit of the requesting owner shall be purchased according to the following procedures. If such owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within thirty days thereafter. If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "commencement date" from which all periods of time mentioned herein shall be measured. Within ten days following the commencement date, each party shall nominate in writing (and give notice of each nomination to the other party) an appraiser. If either party fails to make such a nomination, the appraiser nominated shall, within five days after default by the other party, appoint and associate with him another appraiser. If the two designated or selected appraisers are unable to agree, they shall appoint another appraiser to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, each appraiser previously appointed shall nominate two appraisers, and from the names of the four appraisers so nominated one shall be drawn by lot by any judge of any court of record in Colorado, and the name so drawn shall be such umpire. The nominations from whom the umpire is to be drawn by lot shall be submitted within ten days of the failure of the two appraisers to agree, which, in any event, shall not be later than twenty days following the appointment of the second appraiser. The decision of the appraiser as to the fair market value, or in the case of their disagreement, then such decision of the umpire, shall be final and binding. The expenses and fees of such appraisers shall be borne equally by the Association and the owner. The sale shall be consummated within fifteen days thereafter, and the Association, as attorney-in-fact, shall disburse such proceeds for the same purposes and in the same order as is provided in subparagraphs A through E of Section 2 of this Article IX, except as modified herein.

Section 5. Agreement to Sell Condominium Units. The owners representing an aggregate ownership interest in two-thirds (2/3) or more of the general common elements and two-thirds (2/3) of the holders of all recorded first mortgages or deeds of trust covering or affecting all of the condominium units (based upon one vote for each first mortgage owned) may agree that the condominium units are obsolete and that the same should be sold. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's president and secretary or assistant secretary, the entire premises shall be sold by the Association as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the map and the By-Laws. The sales proceeds shall be apportioned between the owners on the basis of each owner's percentage interest in the general common elements, and such apportioned proceeds shall be paid into separate accounts, each such account representing one condominium unit. Each such account shall be in the name of the Association, and shall be further identified by the condominium unit designation and the name of the owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount (of each) of such accounts, without contribution from one account to another, for the same purposes and in the same order as is provided in subparagraphs A through E of Section 2 of this ARTICLE IX.

Section 6. Notice to Mortgagees. The Association shall notify each first mortgagee in writing of any loss, damage, or destruction to or taking of the common elements if such loss or taking exceeds \$10,000.00 or is otherwise deemed significant, or of any loss, damage or destruction to or taking of any condominium unit which exceeds \$1,000.00, within ten days of such occurrence.

Section 7. Association as Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction, repair or obsolescence.

Title to any condominium unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the owners irrevocably constitute and appoint the SUN MOUNTAIN CONDOMINIUM ASSOCIATION, a non-profit Colorado corporation, their true and lawful attorney in their name, place and stead for the purpose dealing with the property upon its destruction or obsolescence as is hereinafter provided. As attorney-in-fact, the Association, by its president and secretary or assistant secretary, shall have full and complete authorization, power and right to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a condominium unit owner which are necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the improvement(s) as used in the succeeding subparagraphs means restoring the improvement(s) to substantially the same condition in which it existed prior to the damage, with each unit and the general and limited common elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration or replacements, unless accordance with the provisions as set forth hereinafter.

Section 8. Overriding Consent Requirement of Declarant: Notwithstanding anything herein to the contrary, the Declarant's written consent is necessary in order to carry out the provisions mentioned in Sections 3, 4, and 5 of this Article, so long as Declarant holds a Class B membership in the Association.

ARTICLE X.

AMENDMENT

Except for alteration in the common interest which cannot be done except with the consent of all Unit Owners and of the holders of the first mortgages thereon, this Condominium Declaration may be amended by an instrument in writing, signed and acknowledged by Owners representing an aggregate ownership interest of seventy-five percent (75%) or more of the common elements and by first mortgage holders whose first liens cover ownership interests representing seventy-five percent (75%) or more of the common elements; provided, however, that Declarant's written consent is necessary for any amendment to the Declaration so long as Declarant holds any Class B membership rights in the Association. Any amendment of this Declaration shall be recorded with the Huerfano Clerk and Recorder.

ARTICLE XI.

TERMINATION

Section 1. Declarant's Rights. Declarant reserves the right to terminate this Declaration and to discharge same of record provided that no titles have been conveyed to independent Owners. It is distinctly understood and agreed by all persons having any interest in this condominium that a declaration by the Declarant herein to this effect shall be sufficient to discharge same of record.

Section 2. Termination Generally. This Condominium Declaration may be terminated and the Declaration may be revoked, except as limited by this Article XI by a written document, signed and acknowledged by Owners representing an aggregate ownership interest of two-thirds (2/3) or more of the common elements, and by first mortgage holders whose liens cover two-thirds (2/3) or more of the common elements. The Certificate of the Association that such consent has been given shall be duly recorded with the Huerfano County Clerk and Recorder.

Section 3. Effect of Termination. After termination of the Condominium Declaration, the Unit Owners shall own the property as tenants in common in undivided shares and the holders of mortgages and liens against the Unit or Units formerly owned by such Unit Owners shall have mortgages and liens upon the respective undivided common interest of the Unit Owners. All funds held by the Board of Managers and insurance proceeds, if any, shall and continue to be held for the Unit Owners in proportion to the amount of their common interest. The costs incurred by the Board of Managers in connection with a termination shall be a Common Expense.

The Members of the Board of Managers, acting collectively as agent for all Unit Owners, shall continue to have such powers as are granted in this Declaration, and the Articles and By-Laws of the Association, notwithstanding the fact that an event effecting termination has taken place; and notwithstanding such termination, the provisions of Sections 3, 5, 7 and 8 of Article IX and any provisions referred to in such Sections, shall continue to be in full force and effect, and any action for partition shall be held in abeyance pending a sale pursuant to Section 3 or 5 of Article IX.

Section 4. Overriding Consent Requirement of Declarant. Notwithstanding anything herein to the contrary, the Declarant's written consent is necessary for any termination of this Declaration so long as Declarant holds a Class B membership in the Association.

ARTICLE XII.

PROVISIONS PERTAINING TO DECLARANT

Notwithstanding any other provisions in this Declaration to the contrary, for so long as Declarant is entitled to Class B membership in the Association, the following provisions shall be deemed to be in full force and effect.

A. The Declarant reserves the unrestricted right to sell, assign, mortgage or lease any Units which it continues to own after the recording or filing of the Condominium Declaration and Map, and to post signs on the condominium property.

B. The Declarant specifically disclaims any intent to have made any warranty or representation in connection with the property or the Declaration, or Articles or By-Laws of the Association, except as specifically set forth in those documents, and no person shall rely upon any warranty or representation not so specifically made therein. Any estimates of common charges are deemed accurate, but no warranty or guaranty is made nor intended, nor may one be relied upon.

C. Declarant reserves the right to construct and complete the construction of the buildings, drives, lanes, road and all other improvements on the property. Declarant also reserves the right to use and occupy so much of the common element area as may be necessary for the construction, reconstruction, maintenance and operation of any of the buildings or other improvements within the property. Declarant reserves the right to create the plats and development plans showing the Units and common elements within the property.

ARTICLE XIII.

GENERAL PROVISIONS

Section 1. Power of Attorney. The Association shall have full authority, right and power, as attorney-in-fact for the Members and Owners, to cause repair and restoration as provided by this Declaration, and the Association shall have full power of attorney to undertake all transactions necessary in the case of partition, condemnation, or other disposition provided for by law or this Declaration, pertaining to property subject to this Declaration.

Section 2. Easement for Encroachments. If any portion of the common elements encroaches upon a Unit or Units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion of a Unit encroaches upon the common elements, or upon an adjoining Unit or Units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the common elements or the Units. In the event the property is partially or totally destroyed and then re-built, minor encroachments within the context of this Section shall be permitted, and valid easements of the nature permitted by this Section shall exist. Notwithstanding anything herein to the contrary, in no event shall a valid easement for encroachment be created in favor of an Owner if said encroachment occurred due to the willful conduct of said Owner.

Section 3. Condemnation. In the event proceedings are initiated by any government or agency thereof, seeking to take by eminent domain the common element, any part thereof or any interest therein, or any improvement thereon or any interest therein, with a value (including loss of value to the balance of the common element and improvements thereof) as reasonably determined by the Association in excess of \$20,000.00, the Association shall give prompt written notice thereof, including a

description of the part of or interest in the common elements or improvements thereon sought to be so condemned, to all First Mortgagees of Units, Members and to the Declarants. The Association shall have full power and authority to enter into and to defend in said proceedings after giving all First Mortgagees of Units, Members, and Declarants at least fifteen (15) days' prior written notice thereof.

In the event, following such proceedings, there is such a taking in condemnation or by eminent domain of a part or all of the common element, the award made for such taking, if such award is sufficient to repair and restore any portion of such taken common element, shall be applied by the Association to such repair and restoration. If such award is insufficient to repair and restore any portion of such taken common element, or if the full amount of such award is not expended to repair and restore such taken common element, the Association shall disburse the net proceeds of such award to the Owners, in an equitable pro rata manner, depending on the circumstances of the condemnation, as such condemnation may affect particular Owners, provided that the Association shall first pay out of the share for any Owner the amount of any unpaid liens or encumbrances on the Owner's Unit in the order of the priority of such liens or encumbrances on the respective unit. No provision of this Section shall be deemed to give an Owner or any other party priority over the rights of any First Mortgagee to proceeds of a condemnation award.

Section 4. Duration. Each and every provision of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of recording of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each.

Section 5. Registration by Owner of Mailing Address - Notices. Each Owner shall register his mailing address with the Association, and except for monthly statements, Association meeting notices, and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either Registered or Certified Mail, postage prepaid, to the Owner at such address registered with the Association. Notices required herein to the Association or the Declarant shall be sent by either Registered or Certified Mail, postage prepaid, to the Association or the Declarant at 419 No. Cascade Avenue, Colorado Springs, Colorado 80903, until such address is changed by a notice of change of address mailed by the Association, by regular mail, to each Owner. Notice shall also be sufficient if personally delivered to an Owner, in case of notice to an Owner, and where personally delivered to a member of the Board of Managers, in case of notice to the Association.

Section 6. Conflicts of Provisions. In case of conflict between this Declaration and the Articles of Incorporation or the By-Laws, this Declaration shall control.

Section 7. Severability. If any of the provisions of this Declaration, or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

Section 8. Enforcement. The Association, any Owner, or Declarant shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by

any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 9. Captions. Captions used in the Declaration, and the Articles and By-Laws of the Association are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text of the above referenced documents.

Section 10. Gender, Singular, Plural. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders.

Section 11. Colorado Condominium Ownership Act. The provisions of this Declaration shall be in addition and supplemental to the Colorado Condominium Ownership Act and to all other provisions of law, to the extent the same apply.

IN WITNESS WHEREOF, the Declarant has duly executed this Declaration this 6TH day of AUGUST, 1982.

SUN MOUNTAIN ASSOCIATES, a Colorado Partnership

By: Charles E. Doepken
Charles Doepken,
General Partner

By: David F. Jones by
Robert W. Wilson ATTORNEY IN FACT
David F. Jones,
General Partner

By: Jack I. Mason
Charles E. Doepken, his attorney in fact
Jack I. Mason,
General Partner

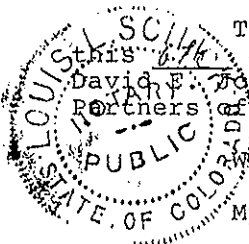
By: Robert W. Wilson
Robert W. Wilson,
General Partner

STATE OF COLORADO)
 Las Animas) ss.
COUNTY OF ~~EL PASO~~)

The foregoing instrument was acknowledged before me this 6th day of August, 1982, by Charles E. Doepken, David F. Jones, Jack I. Mason and Robert W. Wilson, as General Partners of Sun Mountain Associates, a Colorado Partnership.

Witness my hand and official seal.

My commission expires: 11-1-85



Louis G. Schick
Notary Public
Address: 233 S. Main St.
Trinidad Colo - 81082

* by Robert W. Wilson
Attorney in Fact

** by Charles E. Doepken
Attorney in Fact

Legal Description

A portion of Goshen's Subdivision of Block 252 of Addition No. 1 to the City of Colorado Springs, Colorado, as recorded in Plat Book A at Page 44 of the records of El Paso County, Colorado, more particularly described as follows:

Beginning at the Northwest corner of said Goshen's Subdivision; thence $N90^{\circ}00'00''E$ along the southerly right-of-way line of Costilla Street, a distance of 734.34 feet; thence $S00^{\circ}48'04''E$ along the westerly right-of-way line of El Paso Street, a distance of 171.75 feet; thence $S90^{\circ}00'00''W$, a distance of 268.52 feet; thence $S00^{\circ}15'24''W$, a distance of 181.74 feet; thence $N90^{\circ}00'00''W$, a distance of 101.41 feet; thence along the arc of a curve to the left, said curve having a radius of 60.00 feet, a central angle of $300^{\circ}00'00''$ and an arc length of 314.16 feet; said curve being non-tangent to the last described course; thence $N90^{\circ}00'00''E$, on a non-tangent line to the last described curve, a distance of 374.14 feet; thence $S00^{\circ}48'04''E$, along the westerly right-of-way line of El Paso Street, a distance of 160.24 feet; thence $S90^{\circ}00'00''W$, along the southerly line of Block 2 of said Goshen's Subdivision, a distance of 742.72 feet; thence $N00^{\circ}02'09''E$, along the westerly line of said Goshen's Subdivision a distance of 573.69 feet to the point of beginning and containing 341,174 square feet more or less.

EXHIBIT A

Legal Description

A portion of Goshen's Subdivision of Block 252 of Addition No. 1 to the City of Colorado Springs, Colorado, as recorded in Plat Book A at Page 44 of the records of El Paso County, Colorado, more particularly described as follows:

Beginning at the Northwest corner of said Goshen's Subdivision; thence $N90^{\circ}00'00''E$ along the southerly right-of-way line of Costilla Street, a distance of 734.34 feet; thence $S00^{\circ}48'04''E$ along the westerly right-of-way line of El Paso Street, a distance of 171.75 feet; thence $S90^{\circ}00'00''W$, a distance of 268.52 feet; thence $S00^{\circ}15'24''W$, a distance of 181.74 feet; thence $N90^{\circ}00'00''W$, a distance of 101.41 feet; thence along the arc of a curve to the left, said curve having a radius of 60.00 feet, a central angle of $300^{\circ}00'00''$ and an arc length of 314.16 feet; said curve being non-tangent to the last described course; thence $N90^{\circ}00'00''E$, on a non-tangent line to the last described curve, a distance of 374.14 feet; thence $S00^{\circ}48'04''E$, along the westerly right-of-way line of El Paso Street, a distance of 160.24 feet; thence $S90^{\circ}00'00''W$, along the southerly line of Block 2 of said Goshen's Subdivision, a distance of 742.72 feet; thence $N00^{\circ}02'09''E$, along the westerly line of said Goshen's Subdivision a distance of 573.69 feet to the point of beginning and containing 341,174 square feet more or less.

EXHIBIT A