

**DECLARATION**  
**FOR**  
**COLORADO PLAZA III PLANNED COMMUNITY**

THIS DECLARATION is made this 20 day of February, 2004, by Colorado Plaza at Glenwood Springs, LLLP, A Colorado Limited Liability Limited Partnership and Declarant, hereby submits the Project, as hereinafter defined, to the provisions of this Declaration and does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations, and obligations shall be deemed to run with the lands hereinafter described, together with all improvements, appurtenances and facilities thereto and thereof, and shall be a burden and a benefit to Declarant, its successors and assigns, and any persons acquiring or owning an interest in the real property and improvements hereinafter described, their grantees, mortgagees, successors, heirs, executors, administrators, devisees or assigns.

**I.**  
**DEFINITIONS.**

1.1 Association. "Association" means the Colorado Plaza III Unit Owners Association, a Colorado unincorporated nonprofit association whose members shall be the Owners of Units 1-A, 1-B, 1-C, 1-D, 1-E, 1-F, 2-A, 3-A, 3-B, 3-C, 3-D, 3-E and 3-F and Basement Units A, B, C, D, E, F, G, H, I, J, K, L, M, 2A, 2B, 2C, 2D, 2E, 2F, 2G, 2H, 2I, 2J, 2K and 2L of Colorado Plaza III Planned Community, their successors and assigns.

1.2 Building. "Building" means the building improvement situated on the Real Property and containing the Units and Basement Units, as shown and described on the Map and any supplements thereto which may be filed in the Garfield County records.

1.3 Common Elements. "Common Elements" means and includes the Real Property described on Exhibit A hereto, together with all appurtenances thereto and together with all improvements thereon, except the portions thereof which constitute the Units or Basement Units, and shall include any part of the Building or any facilities or fixtures which may be within a Unit or Basement Unit which are or may be necessary or convenient to the support, existence, use, occupancy, operation, maintenance, repair, or safety of the Building or any part thereof or any other Unit or Basement Unit therein. Without limiting the generality of the foregoing, the following shall constitute the Common Elements appurtenant to the Real Property: (a) all foundations, columns, girders, beams and supports of the Building; (b) all exterior walls of the Building, the main or bearing walls within the Building, the main or bearing subflooring and the roof of the Building; (c) all entrances, exits, storage spaces, balconies, stairs, stairways, landings and fire escapes not within any Unit; (d) all utility, service and maintenance areas, spaces, fixtures, apparatus, installations and facilities for purposes of power, light, gas, telephone, television, hot water, cold water, heating, refrigeration, incineration, trash mashing, or similar

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utilities, including furnaces, tanks, pumps, motors, fans, compressors, vents, ducts, flues, wires, pipes, conduits and other similar fixtures, apparatus, installations and facilities, provided they do not exist solely to serve a Unit or Basement Unit in which they may be located; and in certain cases interior to the Building, and (e) all open space, landscaped areas, walkways, parking areas exterior to the Building and driveways, including easements over, across and upon properties adjoining the Real Property. The Common Elements are owned by the Association for the benefit of the Owners and consist of General Common Elements and Limited Common Elements.

1.4 Declarant. "Declarant" means Colorado Plaza at Glenwood Springs, LLLP, a Colorado Limited Liability Limited Partnership, and any successor in interest thereto which is so designated in writing by Colorado Plaza at Glenwood Springs, LLLP and recorded in the records of Garfield County, Colorado.

1.5 General Common Elements. "General Common Elements" means all Common Elements except Limited Common Elements, as hereinafter defined.

1.6 Gross Floor Area. "Gross Floor Area" means the square footage of the floor of a Unit or Units or Basement Unit or Units measured and calculated from the face of the Building on exterior walls and from the center of interior boundary walls thereof, less any floor area occupied by Common Elements located within the boundaries of a Unit or Basement Unit other than the walls of a Unit themselves or other Common Elements located within such walls. Any reference to "Total Gross Floor Area" shall mean the aggregate Gross Floor Area of all Units or Basement Units in the Building as set forth on the Map and subject to the provisions of Section 4.3 below with respect to all Basement Units and Basement Limited Common Elements appurtenant to Residential Units as shown on the Map.

1.7 Guest. "Guest" means any invitee or licensee of any Owner and any person or entity who has acquired any title or interest less than fee simple in a Unit or Basement Unit by, through or under an Owner, including tenants or invitees of any such Owner.

1.8 Limited Common Elements. "Limited Common Elements" means any portion of the Common Elements designated herein for exclusive use by the Owner(s) of one or more, but less than all of the Units. Limited Common Elements include those designated "LCE" and referring to a specific numbered Unit and to be used for the purpose described on the Map. Unless otherwise herein provided, the definition of "Limited Common Elements" shall correspond to that set forth in C.R.S. 38-33.3-202.

1.9 Map. "Map" means the combined Map and Plat for Colorado Plaza III Planned Community filed in the records in the office of the Clerk and Recorder of Garfield County, Colorado, as Reception No. 647035.

1.10 Mortgagee. "Mortgagee" means any person or entity who is a mortgagee under a recorded mortgage or a beneficiary under a recorded deed of trust or the holder of a similar recorded security instrument encumbering a Unit or Basement Unit. "First Mortgage" means the first and most senior of all recorded mortgages, deeds of trust and similar instruments encumbering a Unit or Basement Unit, and "First Mortgagee" means the Mortgagee under such mortgage, deed of trust or other instrument.

1.11 Owner. "Owner" means the person or persons or entity or entities, including Declarant, who own fee simple title to a Unit or Basement Unit. The term Owner shall not include the owner or owners of any lesser estate or interest.

1.12 Project. "Project" means the Real Property and the Building and other improvements now or hereafter located on the Real Property, together with all appurtenances thereto, which Project shall be known and described generally as "Colorado Plaza III."

1.13 Real Property. "Real Property" means the real property described on Exhibit A hereto, together with all appurtenances thereto.

1.14 A. Unit. "Unit" means an enclosed air space occupying part of the Building. Each Unit is shown on the Map and is identified thereon with a number and letter. The boundaries of each Unit are shown on the Map by dimensioned lines along the walls, floors and ceilings which mark the perimeter boundaries of the Unit. The exact boundaries of a Unit are the interior surfaces of such walls, floors and ceilings which mark the perimeter boundaries and, where found along such walls, floors and ceilings, the interior surfaces of built-in fireplaces and of windows and doors in their closed position, and the Unit includes both the portions of the Building so described and the air space so encompassed. The Units are those enumerated and described in Section 1.1 above. Any General Common Elements, as herein defined, which may be within a Unit shall not be part of the Unit or owned by the Owner of the Unit. Further, "Unit" shall include both Residential Units and Commercial Units as identified and defined in Section 7.1 A. and B. below, but shall not include "Basement Unit" as defined in Subsection 1.14 B. immediately below. The foregoing and any other provision or definitions herein set forth notwithstanding, Unit 2-A shall include as a part thereof the entry lobby located on the street level floor area on the east side of the Building and the stairway providing access from such entry lobby to the second floor of the Building.

B. Basement Unit. "Basement Unit" means a physically enclosed or unenclosed space consisting of horizontal floor and ceiling areas demarcated as shown on the Map, within vertical dimensions extending perpendicularly at all points between the horizontal boundaries of such floor and ceiling areas. Each such "Basement Unit" is shown on the Map and is identified thereon with a letter or a number and a letter, as the case may be, and a Basement Unit includes both the portions of the Building so described and the air space encompassed by such horizontal and vertical dimensions.

**II.  
DECLARATION AND EFFECT THEREOF.**

2.1 Declaration. Declarant for itself, its successors and assigns, as Owner of the Project, hereby declares that the Project shall at all times be owned, held, used and occupied subject to the provisions of this Declaration.

2.2 Division Into Units and Basement Units. The Project is hereby divided into thirteen (13) Units and also into twenty-five (25) Basement Units, each consisting of a separate fee simple estate together with appurtenant rights in the Common Elements.

2.3 Association Ownership of Common Elements. The Common Elements shall be owned in fee simple by the Association, subject to the beneficial use thereof by the Owners and the other rights herein expressed. Until such time as the Association comes into existence upon the first conveyance of a Unit by Declarant as hereafter provided, Declarant shall retain complete authority over and control of the Project, and any functions and duties enjoined upon the Association herein shall be performed and fulfilled by the Declarant.

2.4 A. Description of a Unit. Any instrument affecting a Unit shall legally describe it by reference to the identifying Unit number and letter shown on the Map. This identifying number for a Unit in the Project is the number and letter on the Map identifying the Unit. A legal description of a Unit in the Building shall be in the following form:

Unit \_\_\_\_\_  
Colorado Plaza III Planned Community  
In accordance with and subject to the Declaration for Colorado Plaza III Planned Community  
recorded \_\_\_\_\_, 2004, in Book \_\_\_\_\_  
at Page \_\_\_\_\_ as Reception No. \_\_\_\_\_,  
and Map recorded \_\_\_\_\_, 2004 as Reception No. \_\_\_\_\_,  
all of the records in the office of the Clerk and Recorder of Garfield County, Colorado.

and any conveyance or other instrument affecting title to a Unit or any part thereof shall be deemed to include and describe the entire Unit, including the appurtenant rights, easements, obligations, limitations, encumbrances, covenants, conditions and restrictions benefiting or burdening the Unit under the terms of this Declaration.

B. Description of a Basement Unit. Any instrument affecting a Basement Unit shall legally describe it by reference to the identifying Basement Unit letter or number and letter shown on the Map. This identifying letter or number and letter for a Basement Unit in the Project is the letter on the Map identifying the Basement Unit. A legal description of a Basement Unit in the Building shall be in the following form:

Basement Unit \_\_\_\_\_  
Colorado Plaza III Planned Community  
In accordance with and subject to the Declaration for Colorado Plaza III Planned Community  
recorded \_\_\_\_\_, 2004, in Book \_\_\_\_\_  
at Page \_\_\_\_\_ as Reception No. \_\_\_\_\_,  
and Map recorded \_\_\_\_\_, 2004 as Reception No. \_\_\_\_\_,  
all of the records in the office of the Clerk and Recorder of Garfield County, Colorado.

and any conveyance or other instrument affecting title to a Basement Unit or any part thereof shall be deemed to include and describe the entire Basement Unit, including the appurtenant rights, easements, obligations, limitations, encumbrances, covenants, conditions and restrictions benefiting or burdening the Basement Unit under the terms of this Declaration.

Any reference to the Colorado Plaza III in any description shall mean the Colorado Plaza III Planned Community according to the Map and this Declaration, as both are filed and recorded in the office of the Clerk and Recorder of Garfield County, Colorado, and as the same may be amended.

2.5 Duration of Ownership. The ownership of the Common Elements created under this Declaration shall continue until this Declaration is terminated or revoked as hereinafter provided.

2.6 Inseparability. The interests of an Owner in a Unit or a Basement Unit and the appurtenant rights, interests and burdens connected therewith which constitute a Unit or a Basement Unit shall be inseparable for the period of ownership hereinabove described, and any transfer, conveyance, encumbrance or lease thereof shall be so restricted.

2.7 Partition of Common Elements Not Permitted. The Common Elements shall be owned by the Association and there shall be no judicial or other partition of the rights and interests of an Owner in the Common Elements, or any part thereof, nor shall any Owner bring any action seeking partition thereof.

2.8 Ad Valorem Taxation. All taxes, assessments and other charges of the State of Colorado or of any of its political subdivisions or of any special improvement district or of any other taxing or assessing authority shall be assessed against and collected on each Unit or Basement Unit separately and not on the Building or the Project as a whole and each Unit or Basement Unit shall be carried on the tax records as a separate and distinct parcel. For the purpose of valuation for assessment, the valuation of the Common Elements both General and Limited, shall be included in the assessment of the Units or Basement Units and the Declarant shall deliver to the County Assessor of Garfield County, Colorado, a written notice and copy of this Declaration as required by the Colorado Common Interest Ownership Act, setting forth descriptions of the Units or Basement Units and shall furnish all necessary information with respect to such apportionment of valuation of Common Elements for assessment. The lien for taxes assessed to any Unit or Basement Unit shall be confined to that Unit or Basement Unit. No forfeiture or sale of any Unit or Basement Unit for delinquent taxes, assessments or other

governmental charges shall divest or in any way affect the title to any other Unit or Basement Unit.

2.9 Mechanic's Lien. No labor performed or materials furnished for use in connection with any Unit or Basement Unit with the consent or at the request of the Owner of such Unit or Basement Unit or his agent, contractor or subcontractor shall create any right to file a statement of mechanic's lien against the Unit or Basement Unit of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners from and against liability or loss arising from the claim of any lien against the Unit or Basement Unit, or any part thereof, of such other Owner for labor performed or materials furnished for use in connection with the first owner's Unit or Basement Unit. At the written request of any Owner the Association shall enforce such indemnity by collecting from the Owner of the Unit or Basement Unit on which the labor was performed and/or for which the materials were furnished the amount necessary to discharge any such lien, including all costs incidental thereto, including attorney's fees. If not promptly paid, the Association may collect the same in the manner provided herein for collection of assessments for the purpose of discharging the lien.

### III. VARIOUS RIGHTS AND EASEMENTS.

3.1 Owner's Rights in General Common Elements. Subject to the provisions of this Declaration, each Owner and each Owner's Guests shall have a nonexclusive right to use and enjoy for the intended purpose, the General Common Elements, provided there is no hindrance or encroachment upon the lawful rights of use and enjoyment of other Owners and their Guests as described in this Declaration and the Rules and Regulations of the Association.

3.2 Owner's Rights in Limited Common Elements. Subject to the provisions of this Declaration, each Owner and Owner's Guests shall have the right to use and enjoy the Limited Common Elements, the interests and rights in which are appurtenant to the Unit owned by such Owner.

3.3 Owner's Rights in Unit or Basement Unit. Subject to the provisions of this Declaration, each Owner shall have full and complete dominion and ownership of the Unit or Basement Unit which is owned by such Owner and each Owner and each Owner's Guests shall have the exclusive right to use and enjoy the same.

Subject to the provisions of this Declaration, each Owner shall have the right to paint, repaint, tile, carpet, paper and otherwise refinish and decorate the interior surfaces of the walls, ceilings, floors, and doors which are within the boundaries of his Unit.

3.4 Owner's Easements for Access, Support and Utilities. Each Owner shall have a nonexclusive easement in common with all the other Owners for access to and from the Unit or Basement Unit of such Owner and public roads and streets, including, without limitation, over open space, walks, parking areas exterior to the Building, driveways and any other exterior access and/or other easements consistent with the express purpose of such easements which are

part of the Project; each Owner shall have a non-exclusive easement in and over Common Elements, including Common Elements within the Unit or Basement Unit of another Owner, for horizontal and lateral support of his Unit or Basement Unit and for utility service provided to that Unit or Basement Unit, including water, sewer, gas, electricity, telephone and television service.

3.5 Easements for Encroachments. If any part of the Common Elements encroaches or shall hereafter encroach upon a Unit or Basement Unit, an easement for such encroachment and for the maintenance of the same shall exist. If any part of any Unit or Basement Unit encroaches or shall hereafter encroach upon the Common Elements, or upon another Unit or Basement Unit, the Owner of that Unit or Basement Unit shall have an easement for such encroachment and for the maintenance of the same, provided, however, if such encroachment of part of a Unit upon Common Elements is damaged in connection with the installation, maintenance or repair of such Common Element, the Owner of the encroaching Unit shall bear the entire expense of any repair to his Unit. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the Building, by error in the Map, by settling or shifting of the Building, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

3.6 Easements in Unit for Repair, Maintenance and Emergencies. Some of the Common Elements are or may be located within a Unit or Basement Unit or may be conveniently accessible only through a Unit or Basement Unit. The Association shall have an easement for access to each Unit or Basement Unit and to all Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Elements or to any Unit or Basement Unit or to perform any other duties or functions which it is obligated or permitted to perform under this Declaration. Any entry into a Unit or Basement Unit shall be made with advance notice if practical and with as little inconvenience as practicable to the Owner and any damage in the Unit or Basement Unit entered shall be repaired by and at the expense of the Association.

3.7 Easements Deemed Appurtenant. The easements and rights herein created for an Owner shall be appurtenant to the Unit or Basement Unit of that Owner and all conveyances of and other instruments affecting title to a Unit or Basement Unit shall be deemed to grant and reserve the easements and rights as are provided for herein, even though no specific reference to such easements appears in any such conveyance or other instrument.

3.8 Right to Combine Units. Subject to the following provisions, an Owner shall have the right to combine a Unit with one or more adjoining Units only after obtaining written approval from the Association.

A combination of Units shall become effective only when the Owner of the Units which are to be combined executes and records in the Office of the Clerk and Recorder of Garfield County, Colorado, a written statement describing the Units to be combined and declaring that the same are combined. Such combination shall not affect the designation nor prevent separate ownership of the Units in the future, nor shall such combining of Units affect the status thereof

for property tax assessment purposes. Upon the combination of Units, the resulting interest in Limited Common Elements of the combined Units shall be the total of the separate interests prior to combination. In the event of such combination, any part of the Building within the new perimeter boundaries of the combined Units shall cease to be Common Elements if such parts of the Building would not have constituted Common Elements had the combined Units been originally designated on the Map as a single Unit. An Owner shall have the right, if such Owner owns two adjacent Units, to create a doorway between the Units in any common wall.

3.9 A. Partition of Units or Basement Units Other Than Unit 2-A Prohibited / Unit Boundary Adjustments. With the exception of the Owner of Unit 2-A, no Owner shall partition or subdivide any Unit or Basement Unit so as to convey to a prospective owner or encumber any interest in less than an entire Unit or Basement Unit. The foregoing notwithstanding, the boundaries of any Commercial Units (but not Residential Units or Basement Units, except as otherwise herein provided) may be altered and adjusted by the Owners thereof provided the following conditions are complied with:

- i) The Unit boundary adjustment is approved by the Association through Member Action.
- ii) The Unit boundary adjustment will not result in the creation of an additional Unit in the Building.
- iii) Any Unit boundary adjustment shall be accomplished in strict accordance with Title 070 Subdivision, Development and Use of Land of the Municipal Code of the City of Glenwood Springs, Colorado.
- iv) The Owner(s) of the Units whose boundaries are to be adjusted shall bear all expense in connection with the accomplishment of the Unit boundary adjustment, including without limitation, expense of amending the Map if necessary.

Provided further, that an Owner of a Unit consisting of two or more Units combined pursuant to Article 3.8 may partition and re-subdivide such Unit into Units conforming to the dimensions of the Units as originally described in the Map. This Article shall not be construed to prohibit joint or common ownership by two or more persons or entities of a Unit or Basement Unit.

B. Re-subdivision of Unit 2-A. With respect to Unit 2-A, the Owner thereof shall have the right to re-subdivide ("re-condominiumize") the same into not more than seven (7) total Units at any time subsequent to the filing of the Map and thereby create additional Units and Common Elements within Unit 2-A as initially configured on the Map. Any such re-subdivision shall be accomplished in strict accordance with all appropriate provisions of the Municipal Code of the City of Glenwood Springs, Colorado, and any other regulations in conjunction therewith. All expenses of any nature whatsoever incurred in the accomplishment of such re-subdivision, including without limitation, those expenses of preparation and filing of an amendment to the Map and this Declaration shall be borne solely by the Owner of Unit 2-A as applicant for re-





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subdivision. Any such re-subdivision shall not affect the appurtenant nature of the Basement Units owned by the Owner of Unit 2-A as originally configured on the Map, but such Basement Units shall continue to be owned only by the Owners of Units formerly comprising Unit 2-A. Similarly, all parking privileges and restrictions provided herein with respect to Unit 2-A as originally configured shall continue to apply, as shall all other provisions of this Declaration.

Further, no such re-subdivision shall in any manner affect the Units or Basement Units of other Owners, nor any of the Common Elements owned by the Association, nor any other rights, privileges or restrictions granted or imposed upon all Units, Basement Units and the Owners thereof as provided in this Declaration.

In the event of such re-subdivision of Unit 2-A, Exhibit B to this Declaration shall be modified to reallocate the assessments and voting rights imposed upon and granted to the Owner of Unit 2-A, among the Owners of the re-subdivided Units, provided that such assessments and voting rights shall each, in the aggregate, equal those initially ascribed to Unit 2-A on Exhibit B hereto and shall not be affected by any Common Elements that may be created in conjunction with such re-subdivision.

C. Conversion of Basement Units A Through E to a Unit. Any provision herein to the contrary notwithstanding, the Owner of Basement Units A, B, C, D and E, inclusive, shall have the right and option at any time of converting all of such Basement Units into a single Unit which shall be described and designated as "Unit AE" provided that each of the foregoing conditions and requirements are met by such Owner:

- i) Written approval of the City of Glenwood Springs, Colorado, by its representative designated for such purpose.
- ii) Written notification to the Association of the election of the Owner to make such conversion accompanied by a copy of the written approval required in i) above, and also accompanied by a written form of amendment to this Declaration effectively accomplishing such conversion to and redesignation of such Unit. No amendment to the Map shall be required in the accomplishment of such conversion.
- iii) Upon effecting such conversion and as a provision of the aforesaid amendment to this Declaration, Exhibit B hereto shall be modified and amended such that the Schedule of Assessments and Voting Rights shall reflect and allocation of both voting rights and assessments for Unit AE consistent with other Units based upon its total square footage and without any LCE appurtenant thereto, rather than the voting rights and assessments previously allocated to Basement Units A, B, C, D and E.
- iv) All expenses generated by such conversion shall be borne by the Owner of Basement Units A, B, C, D and E.

If the Owner of Basement Units A, B, C, D and E after converting the same to Unit AE subsequently desires to re-convert Unit AE to Basement Units A, B, C, D and E for use for vehicle parking purposes, such Owner may do so by, in effect, reversing the conditions and requirements set forth in i) through iv) above with necessary modifications thereto to accomplish such re-conversion.

#### IV. THE ASSOCIATION.

4.1 General Purposes and Powers. The Association is hereby formed to be and constitute the Association to which reference is made in this Declaration, to perform functions and hold and manage property as provided in this Declaration and to further the interests of Owners of Units and Basement Units in the Project. It shall have all powers necessary or desirable to effectuate these purposes.

4.2 Membership. Each Owner, by virtue of being an Owner and for so long as he is an Owner, shall be a Member of the Association. Membership in the Association shall be appurtenant to the fee simple title to each Unit or Basement Unit and title to and ownership of the Membership for the Unit or Basement Unit shall automatically pass with fee simple title to the Unit or Basement Unit. Each Owner of a Unit or Basement Unit shall automatically be entitled to the benefits and subject to the burdens relating to the Membership for his Unit or Basement Unit. If fee simple title to a Unit or Basement Unit is held by more than one person or entity, the Membership appurtenant to that Unit or Basement Unit shall be shared by all such persons or entities in the same proportionate interest and by the same type of ownership as fee simple title to the Unit or Basement Unit is held. Memberships and voting rights in the Association shall be limited to Owners of Units or Basement Units in the Project and shall not extend to Mortgagees unless such Mortgagees succeed to title to a Unit or Basement Unit.

4.3 Member Action. Unless otherwise herein provided, the Association shall make all decisions, take all actions, exercise all powers and fulfill all obligations required of it hereunder by Member Action, which shall consist of the affirmative vote of the Owners of the Units comprising over fifty percent (50%) of the Total Gross Floor Area of the Units and Basement Units (subject to the provisions immediately below regarding computation of Gross Floor Area of Basement Units) in the Building at any meeting called in accordance herewith, or, without a meeting, by the written approval of any particular action by the Owners of the Units and Basement Units comprising over fifty percent (50%) of the Total Gross Floor Area of all Units and Basement Units in the Building, provided that the Owners of all of the Units and Basement Units are provided an opportunity to approve or disapprove any such action in writing. Any reference herein to any exercise of authority by or fulfillment of any obligations enjoined upon the Association, shall be undertaken by Member Action, whether or not specifically expressed in any particular provision hereof. For purposes of this provision, the Gross Floor Area of each Unit and Basement Unit comprises is set forth on Exhibit B attached hereto and incorporated herein by this reference (hereafter sometimes referred to as "Schedule of Assessments and Member Voting Rights"), subject to any adjustments resulting from Unit boundary adjustments as provided in Section 3.9. Provided further, and the foregoing to the

contrary notwithstanding, all Basement Units, and including those areas constituting Limited Common Elements for storage and parking ("Basement LCEs") comprised of the Gross Floor Areas shown on the Map, because of the nature of such Basement Units and Basement LCEs and solely for purposes of this Section 4.3 and Section 6.3 below, shall be considered to contain an aggregate Gross Floor Area of 3,641.5 square feet rather than the actual aggregate Gross Floor Area square footage shown on the Map and a corresponding percentage of the Building Total Gross Floor Area of 24,937.9 square feet, as reflected on Exhibit B attached hereto and calculated for each Basement Unit and Basement Unit LCE.

4.4 Voting of Owners. The Owner of each Unit or Basement Unit shall have the proportionate voting rights determined as above and as set forth on Exhibit B. Voting by proxy shall be permitted. In the event of multiple Owners of the same Unit or Basement Unit, the multiple Owners shall share the vote assigned to the Unit or Basement Unit so owned in the same proportionate interest as fee simple title to the Unit or Basement Unit is held. The right to vote may not be severed or separated from any Unit or Basement Unit, and any sale, transfer or conveyance of any Unit or Basement Unit to a new Owner or Owners shall operate to transfer the appurtenant voting rights without the requirement of any express reference thereto.

4.5 Manager. The Association by Member Action, from time to time and for a term to be specified in such action, shall appoint a Manager to perform the various functions and exercise the various powers herein delegated to or imposed upon the Manager. The Manager shall be one of the Owners, and shall be reasonably compensated by the Association for his services and reimbursed for his expenses incurred in performance of his duties.

4.6 Meetings/Notices. Each Owner shall be entitled to notice of any meeting at which such Owner has the right to vote. At least one meeting shall be held during each fiscal year of the Association in accordance with Section 6.2 below, the date, time and location within the Project of such meeting shall be determined by the Manager and notice given to the Members as hereinafter provided. Other meetings may be called by request therefor being made to the Manager, in writing, by the Owners of not less than forty percent (40%) of the total voting rights set forth on Exhibit B. Such written request shall specify the purpose for the requested meeting and notice shall be given by the Manager to the Members as provided herein. Notices of meetings shall be in writing and shall state the date, time and place of the meeting and shall indicate each matter to be voted on at the meeting which is known to the Association at the time notice of the meeting is given. Such notices shall be given not less than ten (10) nor more than fifty (50) days before the date for the meeting. Any notice shall be deemed given and any budget or other information or material shall be deemed furnished or delivered to a party at the time a copy thereof is deposited in the mail, postage or charges prepaid, addressed to the party, or, in any event, when such party actually receives such notice, information or material. Any notice, information or material shall be deemed properly addressed to an Owner if it is addressed to the name and address shown on the most recent written notice of name and address, if any, furnished to the Association by such Owner or, if a name and address is not so furnished, if it is addressed "To The Owner" at the address of the Unit or Basement Unit of such Owner.

4.7 Record Date. The Manager of the Association shall have the power to fix in advance a date as a record date for the purpose of determining Owners entitled to notice of or to

vote at any meeting or to be furnished with any budget or other information or material, or in order to make a determination of Owners for any purpose. The Owners existing on any such record date shall be deemed the Owners for such notice, vote, meeting, furnishing of information or material or other purpose and for any supplementary notice, or information or material with respect to the same matter and for any adjournment of the same meeting. A record date shall not be more than fifty (50) days prior to the date on which the particular action requiring determination of Owners is proposed or expected to be taken or to occur. If no record date is established for a meeting the date on which notice of such meeting is first given to any Owner shall be deemed the record date for the meeting.

4.8 Quorums. The presence of Owners who hold majority of the total voting rights of the Association, in person or by proxy, at a meeting to consider a matter shall constitute a quorum for consideration of that matter.

4.9 Statement of Authority. A Statement of Authority as required under the provisions of C.R.S. 7-30-105 shall be prepared and filed by the Association simultaneous with conveyance of the first Unit or Basement Unit by Declarant and upon such filing of the Statement of Authority the Association shall come into being and exist for all purposes set forth herein.

## V. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

5.1 Association as Attorney-In-Fact for Owners. The Association is hereby irrevocably appointed attorney-in-fact for the Owners of all Units or Basement Units and each of them to manage, control and deal with the interest of such Owner so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder; to deal with the Project upon its destruction or obsolescence as hereinafter provided and to deal with and handle insurance and insurance proceeds and condemnation and condemnation awards as hereinafter provided. The acceptance by any person or entity of any interest in any Unit or Basement Unit shall constitute an appointment of the Association as attorney-in-fact as herein provided.

5.2 Common Elements Maintenance. The Association shall be obligated to and shall provide for the care, operation, management, maintenance, improvement, repair and replacement of the Common Elements and for utility service to the Common Elements and to Units and Basement Units. Without limiting the generality of the foregoing, said obligations shall include keeping the Common Elements in good, clean, attractive and sanitary condition, order and repair; removing snow and any other materials from the Common Elements to permit access to and throughout the Project and to the Units or Basement Units keeping the Project safe, attractive and desirable, including, if necessary, the removal of such snow and other materials from the Project itself if the snow storage facilities are not adequate to the purpose; making necessary or desirable alterations, additions, betterments or improvements to or on the Common Elements; and paying utility charges except separately metered utilities and trash collection services which shall be paid by the Owner or user of the Unit or Basement Unit served thereby. In addition to the foregoing general obligations of maintenance, repair and replacement of Common Elements and

not in limitation thereof, such obligations shall include the following particular items, to wit: (i) ongoing maintenance of drainage facilities including outflow from the detention area and sidewalk chase, (ii) ongoing maintenance and repair of the fence along the westerly line of the Project, (iii) annual inspection and maintenance of the fire sprinkler and alarm systems and monitoring of the fire alarm system including any expense related thereto, and (v) all obligations of the developer set forth in paragraph numbered 22 of the Special Conditions of the Major Development Permit No. 02-03 (Planning Item #68-00) for Colorado Plaza III dated February 15, 2001. No prior approval of Owners shall be required for such work but prior approval of the Association, acting through its Members or Manager shall be required for all such work. For purposes of this Declaration, the Association shall bill the Unit Owners in the same manner as separately metered utility charges, for heating and air conditioning provided to the individual Units by the Association, and all such billings shall be paid to the Association monthly.

Notwithstanding the foregoing, each Owner shall be obligated to and shall provide for the care, operation, management, maintenance, improvement, repair and replacement of the Limited Common Elements the use of and rights in which are appurtenant to the Unit(s) or Basement Unit(s) of that Owner(s).

5.3 Other Association Functions. The Association may undertake or contract for any lawful activity, function or service for the benefit, or to further the interests of all, some or any Owners of Units or Basement Units on a self-supporting, regular assessment, or supplementary assessment basis.

5.4 Labor and Services. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as the services of such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration.

5.5 Real and Personal Property of Association. The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise. The Association may lease or acquire and hold title to real property, in addition to holding title to the Common Elements, for the performance of Association purposes and functions; provided, that such decision shall be made by the Association by Member Action. Subject to the Rules and Regulations of the Association, each Owner and each Owner's Guests may use such Association property. Upon termination of ownership of the Project and dissolution of the Association the beneficial interest in any such property shall be deemed to be owned by the then Owners of Units or Basement Units, on a ratable basis according to the Schedule of Assessments set forth on Exhibit B hereto.

5.6 Construction on Association Property. The Association may construct new improvements or additions to real property owned by the Association or demolish improvements thereon, provided that in the case of any improvements, addition or demolition (other than

maintenance or repairs to same), such activity shall be undertaken by the Association only by Member Action.

5.7 Association Right to Utilize, Lease or License General Common Elements. The Association shall have the right to utilize portions of the General Common Elements for the furtherance of its duties, obligations, rights or privileges. Such utilization may include, but is not limited to, the construction of improvements on the General Common Elements for recreational facilities. Any such improvements shall be undertaken by the Association in accordance with the provisions of Article 5.6 above. The Association shall have the right to make such use of General Common Elements as may be necessary or appropriate for it to perform the duties and functions which it is obligated or permitted to perform under this Declaration. The Association shall have the right to license or lease to, or permit the use of the General Common Elements or any Unit or Basement Unit owned by the Association, by fewer than all of the Owners or by non-owners and with any charge by the Association which it deems desirable; provided, however, no such lease shall be for a term of longer duration than three (3) years. Any charge by the Association for a license or lease shall be applied to reduce amounts to be raised by regular assessments.

5.8 Association Right to Borrow Money. The Association shall have the right to borrow funds to pay for any expenditures or outlay required to fulfill its duties, obligations, rights or privileges given to it by this Declaration; provided, however, that in the event the loan proceeds exceed an amount equal to twenty-five percent (25%) of the Association's approved annual budget, the Manager shall call a meeting to discuss the same and give thirty (30) days notice thereof to all Members and the Association and shall obtain the approval of a majority of the voting rights as determined by and set forth on Exhibit B present or represented by proxy at such meeting by the Unit Owners and Basement Unit Owners before making and transacting any such borrowing. Following such approval, the Association may levy a regular or supplementary assessment under the provisions of Article VI for the purpose of the payment of any funds so borrowed and may pledge as collateral for any such loans the assessment so levied together with any of the Association's real or personal property, including the Common Elements.

5.9 Rules and Regulations. The Association may make and enforce reasonable and uniformly applied rules and regulations (the "Rules and Regulations") governing the use of Units or Basement Units and of Common Elements. Such Rules and Regulations may, without limitation, regulate use of Common Elements to assure equitable use and enjoyment by all persons entitled thereto and require that draperies, shades or other window coverings shall present a uniform and attractive appearance from the exterior of the Building. Any such Rules and Regulations made by the Association may be amended from time to time by Member Action.

The Association shall furnish each Owner with a written copy of each and every Rule or Regulation adopted pursuant to this Article 5.9; however, failure to furnish said copy shall not be deemed to invalidate said Rules or Regulations to any extent.

The Association shall have the right to enforce any of the Rules and Regulations of the Association or the obligations of any Owner under this Declaration by suspending the right of such Owner to use any recreational areas and facilities within the Project; provided that such use

suspension may not be imposed for a period longer than thirty (30) days per violation. No penalty may be imposed under this paragraph until the Owner accused of any such violation has first been notified in writing of the violation and afforded the right to have a hearing before the Members of the Association, or has, in writing, waived such right. Each such Owner shall have the right to be heard in person, by submission of a written statement, or through a spokesman, at any such hearing. The Association may also take judicial action against any Owner to enforce compliance with such rules, regulations or other obligations or to obtain injunctive relief and damages for noncompliance, all to the extent permitted by law.

5.10 Implied Rights. The Association shall have and may exercise any right or privilege given to it expressly by this Declaration, or reasonably to be implied from the provisions of this Declaration, or given or implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges.

## VI. ASSESSMENTS.

6.1 Assessments. Each Owner shall be obligated, and shall pay to the Association amounts as hereinafter provided, which amounts are herein called Assessments. Assessments shall include Regular and Supplementary Assessments.

Subject to the provisions hereof, the Association by Member Action, shall have the power and authority to determine all matters in connection with Assessments, including, without limitation, power and authority to determine where, when and how Assessments should be paid to the Association, and each Owner shall comply with all such determinations.

6.2 Determination of Budgets and Assessments. The fiscal year of the Association shall be determined by Member Action of the Association at its first meeting. Within thirty (30) days prior to the commencement of each fiscal year of the Association, the Members by Member Action shall determine the total amount to be raised by Regular Assessments during such fiscal year. The amount to be raised by Regular Assessments for any fiscal year shall be that amount necessary to cover the costs and expenses of fulfilling the functions and obligations of the Association in that fiscal year plus the amount necessary for the capital reserve fund for contingencies, exterior maintenance, construction or reconstruction, repair or replacement of the Project or components thereof, including without limitation, structural and roof repairs and replacement and repair of mechanical, electrical and plumbing systems ("Capital Reserve Fund") plus an amount sufficient to provide a reasonable carryover reserve for the next fiscal year and such determined amount shall constitute the annual budget. The amount to be raised by Regular Assessments shall include amounts necessary to cover obligations made in connection with, or contemplated under, any previously approved annual budget. The total amount required to be raised by Regular Assessments for any fiscal period less than a full fiscal year shall be the total amount or annual budget required to be raised for the fiscal year determined as above multiplied by a fraction, the numerator of which is the number of days in the fiscal period and the denominator of which is the number of days in that fiscal year.

To determine the total amount required to be raised by Regular Assessments, the Manager shall prepare or cause to be prepared and the Members approve a budget for the fiscal year showing, in reasonable detail, the estimated costs and expenses which will be payable in that fiscal year, the amount necessary for the capital reserve and maintenance fund, if any, and for a reasonable carry-over reserve. The Members shall subtract from such estimated costs and expenses an amount equal to the anticipated surplus (exclusive of any reserve funds) attributable to Regular Assessments collected but not disbursed in the fiscal year immediately preceding the fiscal year for which such estimate has been prepared. The Manager shall furnish a copy of the proposed budget to each Owner.

If the Members fail to determine or cause to be determined the total amount to be raised by Regular Assessments in any fiscal year, and/or fail to notify the Owners of the amount of such Regular Assessments for any fiscal year, then any funds held by or on behalf of the Association, including capital reserve and maintenance funds, may be used for the operation of the Project.

Except as emergencies may require, the Association shall make no commitment or expenditures in excess of the funds reasonably expected to be available to the Association.

In addition to Regular Assessments, the Members may levy Supplementary Assessments, payable over such period as the Members may determine: (a) for the purpose of defraying, in whole or in part, to the extent the amounts in the capital reserve fund are insufficient therefor, the cost of any construction or reconstruction, repair or replacement of the Project or any part thereof; (b) for the purpose of defraying any other expense incurred or to be incurred as provided in this Declaration; of (c) to cover the deficiency, in the event that, for whatever reason, the amount received by the Association from Regular Assessments is less than the amount determined and assessed by the Association.

6.3 Allocation of Assessments. All Assessments, whether a Regular or Supplementary Assessment, will be allocated among the Owner's of Units or Basement Units according to and consistent with the Schedule of Assessments and Member Voting Rights for the respective Units or Basement Units as set forth on Exhibit B annexed hereto and incorporated herein, in the same manner and proportionate percentages as voting rights are determined in Article IV above.

6.4 Time for Payments. Unless otherwise established by Member Action, the amount of any Assessment or other amount payable with respect to any Owner or Unit or Basement Unit shall become due and payable uniformly as specified by the Manager of the Association and, in any event, thirty (30) days after any notice of the amount due as to such Assessment or other amount shall have been given by the Manager to such Owner, and any such amount shall bear interest from the date due and payable until paid at the rate of eighteen percent (18.0%) per annum.

6.5 Lien for Assessments and Other Amounts. The Association shall have a lien against each Unit or Basement Unit to secure payment of any Assessment or other amount due and owing to the Association with respect to the Owner of that Unit or Basement Unit or with respect to such Owner's Guests or Unit or Basement Unit, plus interest from the date due and payable, plus all costs and expenses of collecting the unpaid amount, including reasonable



attorney's fees. The lien may be foreclosed in the manner for foreclosures of mortgages in the State of Colorado. If any Owner is deemed to be in default hereunder and fails to cure such default within thirty (30) days, the Association shall give written notification of such default to any First Mortgagee of the Unit or Basement Unit owned by such Owner whose name and address is expressly provided in the recorded mortgage, deed of trust or other lien. The lien for Assessments shall have priority over all other liens and encumbrances on or against a Unit or Basement Unit except for the lien for general ad valorem taxes and the lien of a First Mortgage.

6.6 Estoppel Certificate. Upon the payment of a reasonable fee as the same shall be established from time to time by Member Action and upon written request of any Owner or any person with any right, title or interest in a Unit or Basement Unit or intending to acquire any right, title or interest in a Unit or Basement Unit, the Association shall furnish a written statement setting forth the amount of Assessments or charges, if any, due or accrued and then unpaid with respect to the Unit or Basement Unit, the Owner, and such Owner's Guests and the amount of the Assessments for the current fiscal period of the Association payable with respect to the Unit or Basement Unit, which statement shall, with respect to the party to whom it is issued, be conclusive against the Association that no greater or other amounts were then due or accrued and unpaid.

6.7 Liability of Owners, Purchasers and Encumbrances. The amount of any Assessment charge owing to the Association by any Owner under this Declaration shall be a personal obligation to the Association of such Owner and such Owner's heirs, personal representatives, successors and assigns. A party acquiring fee simple title to a Unit or Basement Unit by means other than foreclosure of a First Mortgage, shall be jointly and severally liable with the former Owner for all amounts which had accrued and which were payable at the time of the acquisition of fee simple title to the Unit or Basement Unit by such party without prejudice to such party's right to recover any of said amounts paid from the former Owner. Each such amount, together with interest thereon, may be recovered by suit for a money judgment by the Association without foreclosing or waiving any lien securing the same.

## **VII. USE AND OTHER RESTRICTIONS**

### **7.1 Unit and Basement Unit Restrictions**

A. Residential Units. Each of the Units identified on the Map as Unit Nos. 3-A, 3-B, 3-C, 3-D, 3-E and 3-F and the rights and interests therein which are appurtenant thereto (the "Residential Units"), shall be used and occupied for single family residential purposes only, and none of such Units shall be used at any time for business or commercial activity except that an Owner may lease or rent his Unit for such single-family residential purposes, provided that any such lease or tenancy is for a period of not less than thirty (30) days.

B. Commercial Units. Each of the Units identified on the Map as Unit Nos. 1-A, 1-B, 1-C, 1-D, 1-E, 1-F and 2-A and the rights and interests therein which are appurtenant thereto, (the "Commercial Units") shall be used for commercial purposes only and the use of such Units shall be limited and restricted to the uses allowed under the C/I Limited Commercial



Zone District of Article 070.040 through 070.100, the Zoning Code of the City of Glenwood Springs, Colorado, whether such aforesaid commercial uses are allowed as Permitted Uses or Special Review Uses, but expressly excluding any type of residential use allowed under the cited Article of the Zoning Code. The foregoing notwithstanding, use of the Commercial Units shall be further subject to the use restrictions set forth in First Amendment to Lease recorded in Book 1271 at Page 905 of the records of Garfield County, Colorado.

C. Basement Units. Each of the Units identified on the Map as Basement Units and Basement LCEs and the rights and interests therein which are appurtenant thereto shall be used and occupied only for purposes of parking automobiles (including SUVs and pickup trucks) or storage, respectively, as shown and designated on the Map, and for no other purpose whatsoever, except as provided in Subsection 3.9. C. above.

D. Zoning and Other Ordinances of the City of Glenwood Springs, Colorado. All uses of all Residential Units, Commercial Units and Basement Units as well as the Common Elements shall be subject to, governed, restricted and regulated by the provisions of the Municipal Code of the City of Glenwood Springs, Colorado.

7.2 Common Elements Restrictions. No Owner and no Owner's Guest shall obstruct, damage or commit waste to any of the Common Elements. No Owner and no Owner's Guest shall change, alter or repair, or store anything in or on, any of the Common Elements without the prior written consent of the Association.

7.3 No Imperiling of Insurance. No Owner and no Owner's Guests shall, without the prior written consent of the Association, do anything or cause anything to be kept in or on the Project that might result in an increase in the premiums for insurance obtained for the Project or that might cause cancellation of such insurance.

7.4 No Violation of Law. No Owner and no Owner's Guests shall do anything or keep anything in or on the Project that would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

7.5 No Noxious, Offensive, Hazardous or Annoying Activities. No noxious or offensive activity shall be carried on upon any part of the Project nor shall anything be done or placed on or in any part of the Project that is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. No activity shall be conducted, and no improvements shall be made or constructed, on any part of the Project that are or might be unsafe or hazardous to any person or property. No sound shall be emitted on any part of the Project that is unreasonably loud or annoying to others. No odor shall be emitted on any part of the Project that is noxious or offensive to others. No light shall be emitted from any part of the Project that is unreasonably bright or causes unreasonable glare.

7.6 No Unsightliness. No unsightliness shall be permitted on or in any part of the Project. Without limiting the generality of the foregoing, nothing shall be kept or stored on or in any of the Common Elements, nothing shall be hung or placed upon any of the Common



Elements, and nothing shall be placed on or in windows or doors of Units that would or might create an unsightly appearance.

7.7 Restriction on Signs. No signs or advertising devices of any nature shall be erected or maintained on any part of the Project without the prior written consent of the Association; provided, however, that the Association shall permit the placing of at least one sign determined in the discretion of the Association to be of reasonable size and dignified form, external to the Commercial Unit and identifying the business of the Commercial Unit therein. Also, Owners of the Commercial Units may install, affix or apply a sign upon Commercial Unit entry doors for purposes of identifying the occupant and business located and conducted within the Commercial Unit. Further, a sign structure commonly known as a "Monument Sign" and constituting a Limited Common Element of all Commercial Units shall be constructed by the Declarant and maintained by the Association on the Real Property identifying the Project and the individual businesses and offices located in the respective Commercial Units. Nothing herein contained shall prohibit or restrict in any way the Declarant's right to construct other such promotional signs or other sales aids on or about any portion of the Project which it shall deem reasonably necessary in connection with its sale or leasing of the Units or Basement Units. All signs referred to above and permitted to be installed and maintained on the Property shall be in strict compliance with the Sign Code of the City of Glenwood Springs, Colorado.

7.8 Antennas. No radio, television or other type of antenna shall, without the written consent of the Association, be installed or maintained on the roof or exterior of the Building, with the exception of the antenna(s) installed by Declarant and constituting a Common Element.

7.9 Maintenance of Unit. Each Unit or Basement Unit and the Limited Common Elements the rights and interests in which are appurtenant thereto and all improvements, fixtures, furniture and equipment therein shall be kept and maintained by the Owner thereof in a safe condition and in good repair. No structural alterations within any Unit or Basement Unit or such Limited Common Elements shall be made and no electrical, plumbing or similar work within any Unit or Basement Unit or such Limited Common Elements shall be done without the prior written consent of the Association if the electrical, plumbing or other facility constitutes a Common Element.

7.10 No Violation of Rules. No Owner's Guests shall violate the Rules and Regulations adopted from time to time by the Association whether relating to the use of Units or Basement Units, the use of Common Elements, or otherwise, and violations of the Rules and Regulations by any Owner's Guests shall be treated as a violation by such Owner and shall be enforceable in accordance with Article 5.9 hereof.

7.11 Owner Caused Damages. If, due to the act or neglect of an Owner or such Owner's Guests, loss or damage shall be caused to any person or property, including the Building, the Common Elements, or any Unit or Basement Unit, such Owner shall be liable and responsible for the same except to the extent that such damage or loss is covered by insurance obtained by the Association and the insurer has waived its rights of subrogation against such Owner. The amount of such loss or damage may be collected by the Association from such

Owner, and such amount shall be enforceable as an Assessment and lien therefore in accordance with Article VI hereof.

7.12 Animals. Unless otherwise allowed in writing by the Manager on a case by case basis, no animals of any kind whatsoever shall be permitted, kept or maintained on a temporary or permanent basis on any part of the Building or the Project, except for dogs which may be kept within any Commercial Unit without further approval. In the event any dog so maintained in a Commercial Unit or any other pet (having Manager approval) becomes a nuisance, in the sole and absolute discretion of the Manager of the Association, the dog or other pet, upon written notification of such determination by the Manager to the Owner of the Unit in which the dog or other pet is kept, shall be immediately removed from the Project and not permitted to be returned.

7.13 Occupancy Limited in Residential Units. Occupancy of each of the Residential Units shall be limited (i) to not more than a total of six (6) persons in each of the Units 3A and 3F, of which total no more than three persons per Unit shall be over the age of twenty-one (21) years and (ii) to not more than a total of four (4) persons in each of the Units 3B, 3C, 3D and 3E, of which total no more than two persons per Unit shall be over the age of twenty-one years.

7.14 Motor Vehicle Parking Restrictions for Residential Units. No Owner of a Residential Unit or such Owner's Guests shall occupy more than one (1) motor vehicle parking space on the Project between the hours of 8:00 o'clock A.M. and 5:00 o'clock P.M. Monday through Friday of every week, including parking spaces that constitute a Limited Common Element of such Residential Unit. Further, no such Residential Unit Owner or Owner's Guests shall occupy more than six (6) motor vehicle parking spaces on the Project during any other period of time than that specified above and if the Residential Unit owned by such Owner includes a parking space as a Limited Common Element, such parking space shall be occupied before any additional parking spaces are occupied. Provided further, that no such Residential Unit Owner nor such Owner's Guests shall occupy any motor vehicle parking space on any portion of the properties or Projects owned by the parties to the Amended Reciprocal Easement Agreement referred to in Section 7.16 below other than the Project constituting Colorado Plaza III. In no event shall any Residential Unit Owner or Owner's Guests occupy any parking space designated as an LCE appurtenant to any other Unit, Residential or Commercial. Provided further, and notwithstanding any other provision hereof or in the Amended Reciprocal Easement Agreement referred to in Section 7.16 below, all parking spaces located on the east side of the Building and which are accessed by the Common Access Easement described in instrument recorded in Book 1271 at Page 913 as Reception No. 585051 of the Garfield County, Colorado records, as well as the two (2) additional parking spaces located as shown on Exhibit C hereto and depicted as "2-A Parking" on Exhibit C hereto, comprising a total of seventeen (17) parking spaces, shall be available for the exclusive use of the Owner, tenants, guests, invitees and employees of the Owner of Unit 2A during the hours from 8:00 o'clock A.M. to 5:00 o'clock P.M., Monday through Friday of each week, and neither such Owner nor his employees, tenants, guests or invitees shall have any right to park on any other portion of Colorado Plaza I or Colorado Plaza III at any time with the exception of the parking spaces comprising Basement Units 2A through 2J, inclusive, and owned by the Owner of Unit 2A and with the further

exception of joint use of the one (1) handicapped parking space located on the west side of the Building and so designated on said Exhibit C.

7.15 Recreational and Other Vehicle Related Restrictions on All Units. No Owner nor Owner's Guests shall park or store at any location or area on the Project constituting a Common Element, any recreational vehicle, including but not limited to, motor homes, snowmobiles, all-terrain vehicles, boats of any type, nor any inoperable or unlicensed vehicle of any kind. Further, no such Owner or Owner's Guests shall perform or permit to be performed any service, maintenance or repair work on any motor vehicle at any location or area on the Project.

7.16 Amended Reciprocal Easement Agreement. Use of any Common Elements of the Project by any Unit Owner or Basement Unit Owner or Unit Owner's or Basement Unit Owner's Guests shall be subject to and restricted by the provisions of the Amended Reciprocal Easement Agreement recorded in Book 1563 at Page 198 as Reception No. 647037 of the records of Garfield County, Colorado (the "Amended REA"), and any further amendment to the REA duly entered into by the Association through Member Action. In the event any conflict or ambiguity exists between the provisions hereof and the provisions of the Amended REA, the provisions of the latter instrument shall control.

7.18 Non-Smoking Restrictions. The Building shall be a smoking free environment and no Owner, tenant, guest, or invitee shall be allowed to smoke cigarettes, cigars, pipes or any other material or device anywhere in the Building with the limited exception that smoking is allowed within the Residential Units so long as no smoke or the odor of smoke is detectable outside the Residential Unit.

## VIII. INSURANCE

8.1 Insurance, Requirements Generally. The Association shall obtain and maintain in full force and effect at all times certain casualty, liability and other insurance as hereinafter provided. All such insurance shall be obtained from responsible companies duly authorized to do insurance business in the State of Colorado. All such insurance shall name as insureds, the Association, the Declarant, the Members and Managers of the Association, the Association's employees and agents and the Unit or Basement Unit Owners, in their capacity as Owners. All such insurance shall protect each of the insureds as if each were separately insured under separate policies. To the extent possible such casualty insurance shall: (a) provide for a waiver of subrogation by the insurer as to claims against Declarant, the Association, its Members, Managers, employees, and agents and against each Owner and each Owner's employees and Guests; (b) provide that the insurance cannot be cancelled, invalidated or suspended on account of the conduct of the Association, its Members, Managers, employees and agents of any Owner or such Owner's employees or Guests; (c) provide that any "no other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by any Owner or Mortgagee and that the insurance policy shall not be brought into contribution with insurance maintained by any Owner or Mortgagee; (d) contain a standard mortgage clause endorsement in favor of the Mortgagee of any Unit or Basement Unit or part of the Project except a Mortgagee of a Unit or Basement Unit or part of the Project who is covered by other and separate insurance; (e) provide

that the policy of insurance shall not be terminated, cancelled or substantially modified without at least ten (10) days' prior written notice to the Association and to each Owner and to each Mortgagee covered by any standard mortgage clause endorsement; (f) be in the form of a single policy covering all of the improvements in the entire Project, and (g) provide that the insurer shall not have the option to restore the Building if ownership of the Project is to be terminated in accordance with the terms of this Declaration or if the Building is to be sold in accordance with the destruction, condemnation and obsolescence provisions of this Declaration. To the extent possible, public liability and property damage insurance shall provide for coverage of any cross liability claims of Owners against the Association or other Owners and of the Association against Owners without right of subrogation. Any insurance policy may contain such deductible provisions as the Association deems consistent with good business practice.

The Association shall obtain an independent appraisal of the Project every three years; provided, however, that said appraisal may be performed by an appraiser employed by an insurance company.

Certificates of insurance coverage or copies of insurance policies shall be issued to each Owner and each Mortgagee who makes written request to the Association for any such certificate or copy of an insurance policy.

The cost and expense of all insurance obtained by the Association, except insurance covering additions, alterations or improvements made to a Unit or Basement Unit by an Owner or other insurance obtained at the request of and specifically benefiting any particular Owner, shall be an expense of the Association, for which the Association shall levy and collect an Assessment in accordance with the provisions of Article VI.

8.2 Casualty Insurance. The Association shall obtain and maintain casualty insurance covering the Project and each Unit or Basement Unit covering loss or damage by fire and such other hazards as are covered under standard extended coverage policies, with vandalism and malicious mischief endorsements, and, if available and if deemed appropriate by the Association, war risk, for the full insurable replacement cost of the Project, including each Unit or Basement Unit. At the option of the Association such insurance may also cover additions, alterations or improvements to a Unit or Basement Unit made by an Owner if the Owner reimburses the Association for any additional premiums attributable to such coverage. The Association shall not be obligated to apply any insurance proceeds to restore a Unit or Basement Unit to a condition better than the conditions existing prior to the making of additions, alterations or improvements by an Owner in the absence of insurance covering such additions, alterations or improvements as aforesaid.

8.3 Public Liability and Property Damage Insurance. The Association shall obtain and maintain comprehensive public liability and property damage insurance covering personal injury and property damage liability of the Association, its Members, Manager, employees and agents and of each Owner and each Owner's employees and Guests, and the Declarant arising in connection with ownership, operation, maintenance, occupancy or use of the Project, of any Unit or Basement Unit in the Project or the Common Elements, with limits of not less than

\$1,000,000.00 for each occurrence involving bodily injury liability and/or property damage liability.

8.4 Worker's Compensation and Employer's Liability Insurance. The Association shall obtain and maintain worker's compensation and employer's liability insurance as may be necessary to comply with applicable laws.

8.5 Insurance by Owners. Except to the extent coverage therefor may be obtained by the Association and be satisfactory to an Owner, each Owner shall be responsible for obtaining insurance he deems desirable including, without limitation, casualty insurance covering furnishings and personal property belonging to that Owner and insurance covering personal liability of that Owner and that Owners employees and Guests. Any insurance policy obtained by an Owner shall be such that it will not diminish or adversely affect or invalidate any insurance or insurance recovery under policies carried by the Association and shall, to the extent possible, contain a waiver of the right of subrogation by the insurer as to any claim against the Association, its Members, Manager, agents and employees and against other Owners and their employees and Guests and the Declarant. A copy of any insurance policy obtained by an Owner shall be furnished to the Association.

8.6 Receipt and Application of Insurance Proceeds. Except as some particular person has legal right to receive insurance proceeds directly, all insurance proceeds and recoveries shall be paid to and received by the Association. All insurance proceeds or recoveries received by the Association shall be applied by the Association: first, as expressly provided elsewhere in this Declaration; second, to the Owners or persons whom the Association may determine are legally or equitably entitled thereto; and third, the balance, if any, to Owners of Units or Basement Units ratably, in accordance with the Schedule of Assessments and Member Voting Rights set forth in Exhibit B hereto.

8.7 Other Insurance by Association. The Association shall have the power or authority to obtain and maintain other and additional insurance coverage, including casualty insurance covering personal property of the Association, fidelity bonds or insurance covering employees and agents of the Association and insurance indemnifying Members, Manager, employees and agents of the Association and the Declarant.

8.8 Owner-Increased Premiums. In the event that, as a consequence of the hazardous use of any Unit or Basement Unit, or of any Owner-installed improvements to any Unit or Basement Unit, the premiums of any policy of insurance purchased by the Association are increased, or a special policy is required, the cost of such increase or special policy shall be payable by the Owner of such Unit or Basement Unit.

## IX. DESTRUCTION, CONDEMNATION, OBSOLESCENCE, AND RESTORATION OR SALE OF THE PROJECT

9.1 Certain Definitions. The following terms shall have the following definitions:

(a) Substantial and Partial Destruction. "Substantial Destruction" shall exist whenever, as a result of any damage or destruction to the Project, including the Building and Common Elements, the excess of Estimated Costs of Restoration (as hereinafter defined) over Available Funds (as hereinafter defined) is fifty percent (50%) or more of the estimated Restored Value (as hereinafter defined) of the Project, including the Building and Common Elements. "Partial Destruction" shall mean any other damage of the Project, including the Building or Common Elements or any part thereof.

(b) Substantial and Partial Condemnation. "Substantial Condemnation" shall exist whenever a complete taking of the Building or a part thereof has occurred under eminent domain or by grant or conveyance in lieu of condemnation has occurred, and the excess of the Estimated Costs of Restoration over Available Funds is fifty percent (50%) or more of the estimated Restored Value of the Building. "Partial Condemnation" shall mean any other such taking by eminent domain or grant or conveyance in lieu of eminent domain.

(c) Substantial and Partial Obsolescence. "Substantial Obsolescence" shall exist whenever the Owners by Member Action determine that Substantial Obsolescence exists or whenever the Project, including the Building and Common Elements or any part thereof has reached such a state of obsolescence or disrepair that the excess of Estimated Costs or Restoration over Available Funds is fifty percent (50%) or more of the estimated Restored Value of the Project, including the Building and Common Elements. "Partial Obsolescence" shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.

(d) Restoration. "Restoration," in the case of any damage or destruction, shall mean restoration of the Project, including the Building and Common Elements to a condition the same or substantially the same as the condition in which it existed prior to the damage or destruction; in the case of condemnation, shall mean Restoration of the remaining portion of the Project, including the Building and Common Elements to an attractive, sound and desirable condition; and, in the case of obsolescence, shall mean restoration of the Project, including the Building and Common Elements to an attractive, sound and desirable condition.

(e) Restored Value. "Restored Value" shall mean the value of the Project, including the Building after Restoration as estimated by the Association by Member Action.

(f) Estimated Costs of Restoration. "Estimated Costs of Restoration" shall mean the estimated costs of Restoration, as determined by the Association by Member Action.

(g) Available Funds. "Available Funds" shall mean any proceeds of insurance or condemnation awards or payments in lieu of condemnation attributable to the Project, including the Building and Common Elements plus a percentage of any uncommitted income or funds of the Association including funds from the capital reserve fund and the carry-over reserve fund of the Project, including the Building and Common Elements. Available Funds shall not include that portion of insurance proceeds legally required to be paid to any party other than the Association, including a Mortgagee, or that portion of any condemnation award or payment in lieu of condemnation payable to the Owner of a Unit or Basement Unit for the condemnation or taking of that Owner's Unit or Basement Unit.



9.2 Determination by the Members. Upon the occurrence of any damage or destruction to the Project, including the Building or any part thereof, or upon a complete or partial taking of the Project, including the Building under eminent domain or by grant or conveyance in lieu of condemnation, the Members, by Member Action, shall make a determination as to whether the excess of Estimated Costs of Restoration over Available Funds is fifty percent (50%) or more of the estimated Restored Value of the Building and Common Elements. In addition, the Members shall, from time to time, review the condition of the Project, including the Building and Common Elements to determine whether Substantial Obsolescence exists.

9.3 Restoration of the Project. Restoration of the Project, including the Building and Common Elements shall be undertaken by the Association without a vote of Owners in the event of Partial Destruction, Partial Condemnation or Partial Obsolescence, but shall be undertaken in the event of Substantial Destruction, Substantial Condemnation or Substantial Obsolescence only by Member Action and the consent of the First Mortgagees who hold security interests in those Units or Basement Units the ownership of which is required for and constituting Member Action. In the event the insurance proceeds actually received exceed the cost of Restoration when such Restoration is undertaken pursuant to this Article IX, the excess shall be paid and distributed to all of the Owners of Units or Basement Units in the Building, ratably, based upon percentage proportions set forth in the Schedule of Assessments and Member Voting Rights set forth on Exhibit B hereto.

9.4 Sale of the Project. The Project, including the Building and Common Elements shall be sold in the event of Substantial Destruction, Substantial Condemnation or Substantial Obsolescence unless consent to Restoration has been obtained in accordance with Section 9.3 above. In the event of such sale, ownership of the Project, including the Building and Common Elements under this Declaration shall terminate and the proceeds of sale and any insurance proceeds, condemnation awards or payment in lieu of condemnation shall be distributed by the Association to the Owners of Units or Basement Units in the Building, ratably, based upon percentage proportions set forth in the Schedule of Assessments and Member Voting Rights set forth on Exhibit B hereto. Payments to be made to Owners hereunder shall be made jointly to Mortgagees as to Units or Basement Units which are mortgaged at the time of such payment.

9.5 Authority of Association to Restore or Sell. The Association, as attorney-in-fact for each Owner, shall have full power and authority to restore or to sell the Project, including the Building and Common Elements and each Unit or Basement Unit in the Project, including the Building and Common Elements whenever Restoration or sale, as the case may be, is undertaken as hereinabove provided. Such authority shall include the right and power to enter into any contracts, deeds or other instruments which may be necessary or appropriate for Restoration or sale, as the case may be.

9.6 Payment of Proceeds. All insurance proceeds or proceeds of sale shall be paid to the Association as trustee for all of the Owners and all Mortgagees, as the interest of such Owners and such Mortgagees may appear, subject to the obligation of the Association to restore the Project, including the Buildings and Common Elements as provided herein.

9.7 Supplementary Assessments for Restoration. Whenever Restoration is to be undertaken, the Association may levy and collect Supplementary Assessments from each Owner of a Unit or Basement Unit in the Building to cover the costs and expenses of Restoration to the extent not covered by Available Funds. Such Supplementary Assessments shall be apportioned to the Owner of each Unit or Basement Unit, ratably, based on the Schedule of Assessments and Member Voting Rights set forth on Exhibit B hereto. Such Supplementary Assessment shall be payable over such period as the Association may determine, and shall be secured by a lien on the Unit or Basement Unit of each such Owner as in the case of Regular Assessments. Notwithstanding any other provisions in this Declaration to the contrary, in the case of Substantial Destruction, Substantial Condemnation or Substantial Obsolescence, any such Supplementary Assessment shall not be a personal obligation of any such Owner who did not consent to Restoration, but, if not paid, may be recovered only by foreclosure of the lien against the Unit or Basement Unit of such Owner.

9.8 Receipt and Application of Condemnation Funds. All compensation, damages or other proceeds constituting awards for a complete taking of the Project, including the Building or a taking of part of the Project, including the Building under eminent domain or by grant or conveyance in lieu of condemnation shall be payable to the Association. The amount thereof allocable to compensation for the taking of or injury to a particular Unit or Basement Unit or to improvements of an Owner therein shall be apportioned to the Owner of that Unit or Basement Unit. The balance of the award shall be applied to costs and expenses of Restoration, if undertaken, and, to the extent not so applied, shall be allocated as follows: first, any portion of the award allocable to the taking of or injury to Common Elements shall be apportioned among all Owners of Units or Basement Units in the Building, on a ratable basis according to the Schedule of Assessments and Member Voting Rights set forth on Exhibit B hereto; second, the amounts allocable to severance damages with respect to condemnation of a portion of the Building shall be apportioned among Owners with Units or Basement Units in the Building which was not taken or condemned, on a ratable basis according to the Schedule of Assessments and Member Voting Rights set forth on Exhibit B hereto; and third, the amounts allocated to consequential damages or for other purposes shall be apportioned as the Association determines to be equitable under the circumstances.

9.9 Reorganization in the Event of a Condemnation. In the event all of a Unit or Basement Unit is taken in condemnation, that Unit or Basement Unit shall cease to be part of the Project, the Owner thereof shall cease to be a Member of the Association, and any interest in Common Elements appurtenant to that Unit or Basement Unit shall automatically become vested in the Association for the benefit of the remaining Units or Basement Units in the Building on a ratable basis.

9.10 Voting. Except as is provided in this Article IX, the votes of all Owners of all Units and Basement Units in the entire Building shall be considered one hundred percent for such voting purposes.

**X.  
COMMONLY OWNED UNITS OR BASEMENT UNITS**

10.1 Commonly Owned Units or Basement Units. Any Unit or Basement Unit owned by the Association shall be deemed a "Commonly Owned Unit." A Commonly Owned Unit or Basement Unit may be a Unit or Basement Unit acquired by the Association by foreclosure of liens, purchase or otherwise. Notwithstanding the fact that any Unit or Basement Unit may constitute a Commonly Owned Unit, the Unit or Basement Unit shall not be deemed part of the Common Elements.

10.2 Votes and Assessments for Commonly Owned Units. Notwithstanding any other provisions of this Declaration to the contrary, for so long as any Unit or Basement Unit is a Commonly Owned Unit, there shall be no regular membership in the Association for that Unit or Basement Unit; no vote assigned to that Unit or Basement Unit; and no Assessment levied or paid with respect to that Unit or Basement Unit. If any Unit or Basement Unit is a Commonly Owned Unit upon termination of ownership of the Project, including the Building and Common Elements, the beneficial interest in such Unit or Basement Unit shall be deemed owned in common by the then Owners of all other Units or Basement Units, on a ratable basis as set forth on Exhibit B hereto.

10.3 Sale or Lease of Commonly Owned Units. The Association may sell any Commonly Owned Units for their fair market value and shall have the right to lease or permit the use of any Commonly Owned Unit in the same manner as provided in Article 5.7 with respect to Common Elements.

**XI.  
MISCELLANEOUS**

11.1 Duration of Declaration. Each provision contained in this Declaration which is subject to the laws or rules sometimes referred to as the rule against perpetuities or the rule prohibiting unreasonable restraints on alienation shall continue and remain in full force and effect for a period of twenty-one years following the death of the last to die of David Hicks, Connie Hicks, and any of the latter's children living as of the date hereof or until this Declaration is terminated as hereinafter provided, whichever first occurs. All other provisions contained in this Declaration shall continue and remain in full force and effect until ownership of the Project and this Declaration is terminated or revoked as hereinafter provided.

11.2 Amendment and Termination. Any provision contained in this Declaration may be amended, or additional provisions may be added to this Declaration, or this Declaration and ownership of the Project may be terminated or revoked, by the recording of a written instrument or instruments specifying the amendment or addition or the fact of termination and revocation, executed by a sufficient number of the owners of Units and Basement Units to constitute Member Action. No such amendment to this Declaration shall have the effect of prohibiting the use of any Unit or Basement Unit for a purpose which is valid under the provisions of Section 7.1 hereof at the time of such amendment.

11.3 Effect of Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, and any necessary exception or reservation or grant of title, estate, right or interest to effectuate any provision of this Declaration: (a) shall be deemed incorporated in each contract of sale, deed or other instrument by which any right, title or interest in the Project, including the Building and the Common Elements or in any Unit or Basement Unit is sold, granted, devised or conveyed, whether or not set forth or referred to in such contract of sale, deed or other instrument; (b) shall, by virtue of acceptance of any right, title or interest in the Project, including the Building and the Common Elements or in any Unit or Basement Unit by an Owner, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner, and, as a personal covenant, shall be binding on such Owner and such Owner's heirs, personal representative, successors and assigns and, as a personal covenant of an Owner, shall be deemed a personal covenant to, with and for the benefit of the Association but not to, with or for the benefit of any other Owner; (c) shall be deemed a real covenant by Declarant, for itself, its successors and assigns, and also an equitable servitude, running, in each case, as a burden with and upon the title to the Project, including the Building and the Common Elements and each Unit or Basement Unit and, as a real covenant and also as an equitable servitude, shall be deemed a covenant and servitude for the benefit of the Project, including the Building and the Common Elements and each Unit or Basement Unit; and (d) shall be deemed a covenant, obligation and restriction secured by a lien in favor of the Association, burdening and encumbering the title to the Project, including the Building and the Common Elements and each Unit or Basement Unit in favor of the Association.

11.4 Enforcement and Remedies. In addition to any other remedies herein provided, each provision of this Declaration with respect to an Owner or the Unit or Basement Unit of an Owner shall be enforceable by the Association or by any individual Owner by a proceeding for a prohibitive or mandatory injunction or by a suit or action to recover damages or both. If any court proceedings are instituted in connection with the rights of enforcement and remedies provided in this Declaration, the prevailing party shall be entitled to recover from the losing party its costs and expenses in connection therewith, including reasonable attorney's fees.

11.5 Protection of Encumbrancer. No violation or breach of, or failure to comply with, any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any First Mortgage or Deed of Trust on any Unit or Basement Unit taken in good faith and for value and perfected by recording in the Office of the County Clerk and Recorder of Garfield County, Colorado prior to the time of recording in said office of an instrument describing the Unit or Basement Unit and listing the name or names of the Owner or Owners of fee simple title to the Unit or Basement Unit and giving notice of such violation, breach or failure to comply; nor shall such violation, breach, failure to comply or action to enforce affect, defeat, render invalid or impair the title or interest of the holder of any such First Mortgage or Deed of Trust or the title or interest acquired by any purchaser upon foreclosure of any such First Mortgage or Deed of Trust or by deed in lieu of foreclosure or result in any liability, personal or otherwise, of any such holder or purchaser. Any such purchaser on foreclosure or by deed in lieu of foreclosure shall, however, take subject to this Declaration except only (a) violations or breaches of, or failures to comply with, any provisions of this Declaration which occurred prior to the vesting of fee simple title in such purchaser shall not be

deemed breaches or violations hereto or failures to comply herewith with respect to such purchaser, his heirs, personal representatives, successors or assigns and (b) such purchaser shall take the property free of any claims for unpaid Assessments or other amounts against or applicable to the encumbered Unit or Basement Unit.

11.6 Limited Liability. Neither Declarant, the Association, the Members and Manager of the Association, nor any agent or employee of any of the same shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice.

11.7 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of the Association, the Declarant and each Owner and the heirs, personal representatives, successors and assigns of each.

11.8 Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provisions or any valid and enforceable part of a provision of this Declaration.

11.9 Captions. The captions and headings in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration.

11.10 No Waiver. Failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration.

11.11 Further Assurances. The Association and each Owner hereby agree to do such further acts and execute and deliver such further instruments as may reasonably be required to effectuate the intent of this Declaration.

11.12 Word Usage. The use of the masculine gender herein shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, whenever the content so requires.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

Colorado Plaza at Glenwood Springs, LLLP

By: Colorado Plaza III, L.L.C., General Partner

By: David M. [Signature], its Manager

By: Don E. [Signature], its Manager

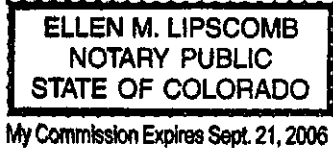
DECLARANT

STATE OF COLORADO )  
 ) ss.  
COUNTY OF GARFIELD )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of February, 2004, by David Hicks and David Harris as Managers of Colorado Plaza III, L.L.C., General Partner of Colorado Plaza at Glenwood Springs, LLLP.

Witness my hand and official seal.

My commission expires \_\_\_\_\_



*Ellen M. Lipscomb*  
Notary Public

EXHIBIT A

Our Order No. GW240830-8

LEGAL DESCRIPTION

A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 6 SOUTH, RANGE 89 WEST OF THE 6TH P.M. SAID TRACT BEING A PORTION OF THAT TRACT DESCRIBED AS COLORADO PLAZA II AND LOT 1 OF THE 14TH AND GRAND MINOR SUBDIVISION IN THE OFFICE OF THE GARFIELD COUNTY CLERK AND RECORDER AND DESCRIBED MORE FULLY AS FOLLOWS:

BEGINNING AT A POINT WHENCE A USGLO WITNESS CORNER FOR THE NORTHEAST CORNER OF SAID SECTION 16 BEARS S 88 DEGREES 36' 00" E 128.00 FEET AND N 80 DEGREES 48' 08" E 1332.38 FEET; THENCE N 88 DEGREES 36' 00" W 27.00 FEET; THENCE S 01 DEGREES 24' 00" W 168.00 FEET; THENCE N 88 DEGREES 36' 00" W 155.00 FEET; THENCE N 01 DEGREES 24' 00" E 199.00 FEET; THENCE S 88 DEGREES 36' 00" E 182.00 FEET; THENCE S 01 DEGREES 24' 00" W 31.00 FEET TO THE POINT OF BEGINNING.

COUNTY OF GARFIELD  
STATE OF COLORADO



647034 02/23/2004 02:33P B1563 P193 M ALSDORF  
31 of 33 R 166.00 D 0.00 GARFIELD COUNTY CO

**EXHIBIT B - SCHEDULE OF ASSESSMENTS  
AND MEMBER VOTING RIGHTS**

Common area assessments per square foot of unit      \$1.8205 per exhibit C.

| Unit Number | Unit Gross Floor Area (ft²) | LCE Storage & Balcony (ft²) | LCE Parking (ft²) | 50% of LCE Parking & Storage | Unit Gross Floor Area (adjusted for LCE) | Percentage of Unit Assessments & Member Voting Rights |
|-------------|-----------------------------|-----------------------------|-------------------|------------------------------|------------------------------------------|-------------------------------------------------------|
| 1-A         | 1,264.4                     |                             |                   | 0.0                          | 1,264.4                                  | 5.070%                                                |
| 1-B         | 1,132.5                     |                             |                   | 0.0                          | 1,132.5                                  | 4.541%                                                |
| 1-C         | 1,063.7                     |                             |                   | 0.0                          | 1,063.7                                  | 4.265%                                                |
| 1-D         | 1,332.1                     |                             |                   | 0.0                          | 1,332.1                                  | 5.342%                                                |
| 1-E         | 1,132.5                     |                             |                   | 0.0                          | 1,132.5                                  | 4.541%                                                |
| 1-F         | 1,442.7                     |                             |                   | 0.0                          | 1,442.7                                  | 5.785%                                                |
| 2-A         | 7,982.8                     |                             |                   | 0.0                          | 7,982.8                                  | 32.011%                                               |
| 3-A         | 1,140.2                     | 170.0                       | 181.1             | 175.6                        | 1,315.8                                  | 5.276%                                                |
| 3-B         | 844.2                       | 140.9                       | 206.5             | 173.7                        | 1,017.9                                  | 4.082%                                                |
| 3-C         | 1,000.7                     | 153.9                       | 171.0             | 162.5                        | 1,163.2                                  | 4.664%                                                |
| 3-D         | 1,000.7                     | 166.0                       | 197.1             | 181.6                        | 1,182.3                                  | 4.741%                                                |
| 3-E         | 844.2                       | 129.0                       | 187.7             | 158.4                        | 1,002.6                                  | 4.020%                                                |
| 3-F         | 1,115.7                     | 154.4                       | 221.3             | 187.9                        | 1,303.6                                  | 5.227%                                                |

| Basement Unit Number | Basement Unit Storage (ft²) | Basement Unit Parking (ft²) | 50% of Basement Unit Parking & Storage | Basement Unit Gross Floor Area (adjusted) | Percentage of Basement Unit Assessments & Member Voting Rights |
|----------------------|-----------------------------|-----------------------------|----------------------------------------|-------------------------------------------|----------------------------------------------------------------|
| A                    |                             | 221.3                       | 110.7                                  | 110.7                                     | 0.444%                                                         |
| B                    |                             | 221.3                       | 110.7                                  | 110.7                                     | 0.444%                                                         |
| C                    |                             | 193.4                       | 96.7                                   | 96.7                                      | 0.388%                                                         |
| D                    |                             | 177.0                       | 88.5                                   | 88.5                                      | 0.355%                                                         |
| E                    |                             | 193.4                       | 96.7                                   | 96.7                                      | 0.388%                                                         |
| F                    |                             | 177.3                       | 88.7                                   | 88.7                                      | 0.355%                                                         |
| G                    |                             | 171.0                       | 85.5                                   | 85.5                                      | 0.343%                                                         |
| H                    |                             | 197.1                       | 98.6                                   | 98.6                                      | 0.395%                                                         |
| I                    |                             | 213.8                       | 106.9                                  | 106.9                                     | 0.429%                                                         |
| J                    |                             | 213.8                       | 106.9                                  | 106.9                                     | 0.429%                                                         |
| K                    | 240.0                       |                             | 120.0                                  | 120.0                                     | 0.481%                                                         |
| L                    | 221.3                       |                             | 110.7                                  | 110.7                                     | 0.444%                                                         |
| M                    | 195.6                       |                             | 97.8                                   | 97.8                                      | 0.392%                                                         |
| 2A                   |                             | 220.1                       | 110.1                                  | 110.1                                     | 0.441%                                                         |
| 2B                   |                             | 213.8                       | 106.9                                  | 106.9                                     | 0.429%                                                         |
| 2C                   |                             | 176.3                       | 88.2                                   | 88.2                                      | 0.353%                                                         |
| 2D                   |                             | 176.3                       | 88.2                                   | 88.2                                      | 0.353%                                                         |
| 2E                   |                             | 192.1                       | 96.1                                   | 96.1                                      | 0.385%                                                         |
| 2F                   |                             | 204.0                       | 102.0                                  | 102.0                                     | 0.409%                                                         |
| 2G                   |                             | 204.0                       | 102.0                                  | 102.0                                     | 0.409%                                                         |
| 2H                   |                             | 204.0                       | 102.0                                  | 102.0                                     | 0.409%                                                         |
| 2I                   |                             | 221.3                       | 110.7                                  | 110.7                                     | 0.444%                                                         |
| 2J                   |                             | 206.5                       | 103.3                                  | 103.3                                     | 0.414%                                                         |
| 2K                   | 243.6                       |                             | 121.8                                  | 121.8                                     | 0.488%                                                         |
| 2L                   | 305.8                       |                             | 152.9                                  | 152.9                                     | 0.613%                                                         |

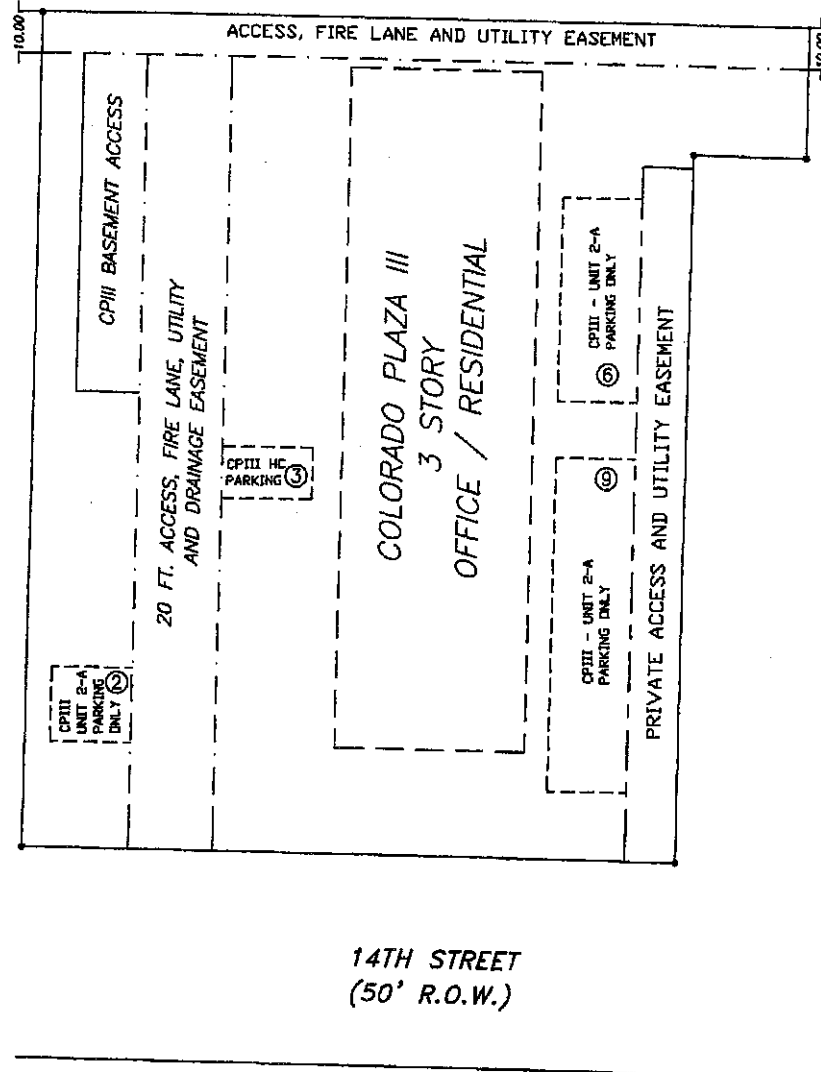
Totals: Units  
and Basement

|       |              |             |             |             |              |          |
|-------|--------------|-------------|-------------|-------------|--------------|----------|
| Units | 21,296.4 ft² | 2,120.5 ft² | 5,162.5 ft² | 3,641.5 ft² | 24,937.9 ft² | 100.000% |
|-------|--------------|-------------|-------------|-------------|--------------|----------|

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# EXHIBIT C



SCALE: 1" = 40'

- ④ NUMBER OF PARKING SPACES
- PROJECT BOUNDARY
- 1st FLOOR
- PARKING EASEMENT
- - - - DRIVEWAY ACCESS EASEMENT
- PRIVATE ACCESS AND UTILITY EASEMENT

647034 02/23/2004 02:33P B1563 P195 M ALSDORF  
33 of 33 R 166.00 D 0.00 GARFIELD COUNTY CO