

**BYLAWS**  
**OF**  
**CASTLE POINT CONDOMINIUMS ASSOCIATION**  
a Colorado nonprofit corporation

**ARTICLE I**  
**Functions**

Section 1.1 Purposes and Objects. The purpose for which this nonprofit corporation (the "Association") is formed is to govern Castle Point Condominiums, a condominium project situate in Gunnison County, Colorado, in accordance with the terms and conditions of the Condominium Declaration for Castle Point Condominiums (the "Condominium Declaration"), and the Articles of Incorporation and Bylaws of the Association.

Section 1.2 Compliance. All present or future owners, tenants, future tenants or any other person who might use the facilities of the condominium project in any manner, are subject to the regulations set forth in these Bylaws. The mere acquisition or rental of the condominium units or the mere act of occupancy of such condominium units will signify that these Bylaws are accepted, ratified and will be complied with.

**ARTICLE II**  
**Membership**

Section 2.1 Members. The owner of a condominium unit, upon becoming such owner, shall be entitled and required to be a member of the Association and shall remain a member for the period of ownership of the condominium unit.

Section 2.2 Appurtenant Right. There shall be one membership in the Association for each condominium unit. Such membership shall be appurtenant to the condominium unit and shall be transferred automatically by a conveyance of the condominium unit to a new owner.

Section 2.3 Voting. Each membership shall be entitled to one vote, and in the event the membership is held by more than one owner, the vote must be cast only as a single vote and split or divided votes of membership shall not be allowed.

Section 2.4 Transfer. No person other than an owner of a condominium unit may be a member of the Association and a membership may not be transferred except in connection with the conveyance or transfer of the

condominium unit; provided, however, that such membership may be assigned to the holder of a mortgage or deed of trust as further security for the loan secured by the lien of such holder upon the condominium unit.

Section 2.5 Person. The term "person" for the purpose of membership shall include a corporation, partnership, limited liability company, trust, joint venture or other legal entity that has valid title to any condominium unit. Any officer, director, shareholder, partner, manager, trustee, or joint venturer of such entity may exercise the membership rights of the entity and shall further be entitled to serve on the board of directors and as an officer of the Association.

Section 2.6 Termination. Such membership shall terminate without any formal corporate action whenever such person ceases to own a condominium unit, but such termination shall not relieve or release any such former condominium unit owner from any liability or obligation incurred under or in any way connected with Castle Point Condominiums during the period of such ownership and membership in the Association, or impair any rights or remedies which the board of directors or others may have against such former owner and member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

### ARTICLE III Meetings

Section 3.1 Annual Meetings. The annual meeting of the membership shall be held on the second Saturday in the month of June of each year, beginning in the year 1994, at a time and place set forth in the notice of said meeting. At the annual meeting the membership shall elect the board of directors and transact such other business as may properly come before it.

Section 3.2 Special Meetings. Special meetings may be called at any time by the board of directors, the president, or upon a written request signed by a majority of the members. No business shall be transacted at a special meeting except as stated in the notice unless by consent of three-fourths of the owners present, either in person or by proxy.

Section 3.3 Notice of Meeting. Notice of the date, place and time of the annual meeting, or any special meeting, shall be given to each member either by delivering such notice to the member personally, or by mailing the same to him by United States mail, which notice shall be given not later than ten days prior to the date of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears on the membership register of the Association, with postage prepaid thereon. A member may waive notice of any meeting.

Section 3.4 Quorum. A majority of the members of the Association in good standing and in actual attendance in person or by proxy at any annual or special meeting of the Association shall constitute a quorum at such meeting for the purpose of transacting business. If a quorum is present, the affirmative vote of a majority of the members present at such meeting in person or by proxy and entitled to vote on the subject matter shall be the act of the membership, unless the vote of a greater number is required by the Articles of Incorporation, the laws of the State of Colorado or the Condominium Declaration.

Section 3.5 Voting of Proxies. At all meetings of the members, a member may vote by proxy executed in writing by the member or by his duly authorized attorney in fact. Such proxy shall be filed with the secretary of the Association before or at the time of the meeting. No proxy shall be valid after eleven months from the date of this execution unless otherwise provided in the proxy.

Section 3.6 Order of Business. The order of business at the annual meeting, and as applicable at any special meeting, shall be as follows:

1. Roll call
2. Proof of notice of meeting
3. Reading and approval of any unapproved minutes
4. Reports of officers and committees
5. Election of directors
6. Unfinished business
7. New Business
8. Adjournment

Section 3.7 Majority of Members. The term "majority of members" shall mean the owners of more than fifty percent of the condominium units.

#### ARTICLE IV Board of Directors

Section 4.1 Number of Directors. The initial number of directors shall be three. The number of directors may be increased or decreased to not less than three nor more than five by a majority vote of the board of directors.

Section 4.2 Powers and Duties. The board of directors shall have the powers and duties necessary for the administration of the affairs of the Association. Such powers and duties shall include, but shall not be limited to, the following:

4.2.1 Exercising all power, duty and authority vested in or delegated to the board of directors under the Articles of Incorporation and Bylaws of the Association.

4.2.2 Exercising all power, duty and authority vested in or delegated to the board of directors under the Condominium Declaration.

4.2.3 Fixing, collecting and enforcing all assessments as provided for in the Condominium Declaration.

4.2.4 Exercising any and all powers granted to the Association by the Colorado Nonprofit Corporation Act and the Colorado Common Interest Ownership Act, as the same now exist or may hereafter be amended from time to time.

4.2.5 Exercising any other power permissible under applicable Colorado law.

4.2.6 Commencing and maintaining, in its own name, on its own behalf, or in the names and on behalf of unit owners who consent thereto, suits and actions to restrain and enjoin any breach or threatened breach of the rules and regulations of the Association.

Section 4.3 Tenure. Each director shall hold office for a term of one year from the date of his election and until his successor shall have been elected and qualified to office, subject only to the provisions of these Bylaws concerning removal of directors.

Section 4.4 Qualifications. All directors shall be members of the Association, subject, however, to the provisions of the Condominium Declaration and the Articles of Incorporation, which reserve unto the declarant the right to appoint directors who need not be members of the Association.

Section 4.5 Elections. Elections for the board of directors shall be by ballot, either oral or written, with the person receiving the highest number of ballots cast for such director vacancy being declared elected. Cumulative voting shall not be allowed in the election of directors.

Section 4.6 Vacancies. The board of directors is empowered to fill any vacancy that may occur in its own body, or among the officers of the Association, and the person so appointed to such office shall hold that office until the expiration of the term of the person he succeeds.

Section 4.7 Compensation. No director shall be entitled to receive any compensation as a director of the Association; provided, however, that he may be reimbursed for any actual expenses incurred in the performance of his duties as a director.

Section 4.8 Chairman and Secretary. The president of the Association shall be the chairman of the board of directors and the secretary of the Association shall be the secretary of the board of directors.

Section 4.9 Regular Meetings. The regular meeting of the board of directors shall be held without other notice than this Bylaw immediately after and at the same place as the annual meeting of the members of the Association. Additional regular meetings shall be held at a time and place to be designated in the notice of such meetings.

Section 4.10 Special Meetings. Special meetings of the board of directors may be called by the president or any two directors. Any special meeting shall be held at a time and place designated in the notice of such meeting.

Section 4.11 Telephonic Meetings. One or more members of the board of directors may participate in a meeting of the Board by means of conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

Section 4.12 Quorum. A majority of the board of directors shall constitute a quorum for the transaction of business at any meeting of the board of directors. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number of directors is required by the Articles of Incorporation, the statutes of the State of Colorado, or the Condominium Declaration.

Section 4.13 Notice. Notice of any meeting of the board of directors shall be given at least three days prior thereto by written notice delivered personally to a director or mailed to each director by United States mail at his address as shown on the membership roll of the Association. Any director may waive notice of any meeting. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the expressed purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at nor the purpose of any regular or special meeting of the board of directors must be specified in a waiver of notice of such meeting.

Section 4.14 Removal. Directors may only be removed at a meeting of the membership called in accordance with the requirements of Article III. The entire board of directors or a lesser number may be removed, with or without cause, by a vote of a majority of the members in good standing present at such meeting in person or by proxy.

ARTICLE V  
Officers

Section 5.1 Number. The officers of the Association shall be a president, vice president, secretary and treasurer. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the board of directors. Any two or more offices may be held by the same person, except that the office of president and secretary may not be held by the same person.

Section 5.2 Tenure. The officers set forth in this Article shall be elected at the annual meeting of the board of directors and shall hold office until the next annual meeting of the board of directors and until their successors have been elected and qualified, subject only to the provisions of these Bylaws concerning removal of officers.

Section 5.3 Qualifications. The president, vice president, secretary and treasurer shall be members of the board of directors. Any additional officers elected or appointed by the board of directors need not be members of the board of directors.

Section 5.4 Election. The officers of the Association shall be elected by the board of directors by ballot, oral or written, with the person receiving the majority of the ballots cast for such office being declared elected.

Section 5.5 Vacancy. A vacancy in any office because of the death, resignation, removal, disqualification or inability to act shall be filled by the board of directors for the unexpired portion of the term of that office.

Section 5.6 President. The president shall be the principal executive officer of the Association and, subject to the control of the board of directors, shall in general supervise and control all of the business and affairs of the Association. He shall, when present, preside at all meetings of the members and of the board of directors. He may sign, with the secretary or any other proper officer of the Association thereunto authorized by the board of directors, deeds, mortgages, contracts or other instruments, and in general, shall perform all duties incident to the office of the president and such other duties as may be prescribed by the board of directors from time to time.

Section 5.7 Vice President. In the absence of the president, or in the event of his death or inability or refusal to act, the vice president shall perform the duties of the president, and when so acting, shall have all of the powers of the president and be subject to all the restrictions upon the president and shall perform such other duties as from time to time may be assigned to the vice president by the president or the board of directors.

Section 5.8 Secretary. The secretary shall: (a) keep the minutes of the members' meetings and of the board of directors' meetings in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws; (c) be custodian of the corporate records and of the seal of the Association and see that the seal of the Association is affixed to all documents, the execution of which on behalf of the Association under its seal is duly authorized; and (d) in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned by the president or by the board of directors.

Section 5.9 Treasurer. The treasurer shall: (a) if required by the board of directors, the treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties, as the board of directors shall determine; (b) shall be responsible for all funds of the Association; receive and give receipts for monies due and payable to the Association from any source whatsoever; deposit all such monies in the name of the Association in such banks as shall be selected by the board of directors; sign checks and drafts for the payment of corporate funds; and (c) in general, perform all of the duties as from time to time may be assigned to him by the president or by the board of directors.

Section 5.10 Compensation. No officer shall be entitled to receive any compensation as an officer of the Association; provided, however, that he may be reimbursed for any actual expenses incurred in the performance of his duties as an officer.

Section 5.11 Removal. Any officer may be removed by the board of directors whenever, in the board's judgment, the best interests of the Association would be served thereby. Such removal can be accomplished at any special meeting of the board of directors called in accordance with the requirements of Article IV. Such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

## ARTICLE VI

### Contracts, Loans, Checks and Deposits

Section 6.1 Contracts. The board of directors may authorize by resolution any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association. Such authority may be general or confined to specific instances.

Section 6.2 Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the board of directors. Such authority may be general or confined to specific instances.

Section 6.3 Checks, Drafts, etc. All checks, drafts or other orders for payment of money, notes, or other evidences of indebtedness issued in the name of the Association shall be signed by any one of the following officers of the Association:

President  
Vice President  
Secretary  
Treasurer

Section 6.4 Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies, or other depositories as the board of directors may elect.

#### ARTICLE VII Fiscal Year

The fiscal year of the Association shall begin on the 1st day of January and terminate on the 31st day of December of each year.

#### ARTICLE VIII Seal

The board of directors shall provide a corporate seal that shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation and the word, "SEAL".

#### ARTICLE IX Waiver of Notice

Whenever any notice is required to be given to any member or director of the Association under the provisions of these Bylaws or under the provisions of the laws of the State of Colorado, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

#### ARTICLE X Indemnification of Officers and Directors

The Association shall indemnify the officers and directors of the Association to the full extent permitted by the statutes of the State of Colorado; provided, however, that nothing in this Article shall be deemed to obligate the Association to indemnify any member who is or has been an officer or director of the Association with respect to any duties or obligations assumed or liabilities incurred by them under and by virtue of the Condominium Declaration as an individual owner of a condominium unit covered hereby and not as a director or officer of the Association.

ARTICLE XI  
Obligation of the Unit Owners

Section 11.1 Assessments. Except as is otherwise provided in the Condominium Declaration, all condominium unit owners shall be obligated to pay the regular and any special assessments imposed by the Association to meet the common expenses. A member shall be deemed to be in good standing and entitled to vote at any annual meeting or at a special meeting of members, within the meaning of these Bylaws, if and only if such members shall have fully paid all assessments made or levied against them and the condominium unit owned by them as of the date of such meeting. The Association shall have the authority to impose liens for nonpayment as set forth in the Condominium Declaration.

Section 11.2 Rules and Regulations. The board of directors shall have the power to establish, make and enforce compliance with such rules and regulations as may be necessary for the operation, use and occupancy of the condominium project with the right to amend the same from time to time.

ARTICLE XII  
Amendments

These Bylaws may be altered, amended or repealed and new bylaws adopted by the board of directors upon an affirmative vote of not less than two-thirds of the entire membership of the board of directors.

ARTICLE XIII  
Assumed Obligations

Upon conveyance of a unit to any unit owner, the same shall be subject to all unpaid assessments of the Association thereon, and the same are deemed assumed by the unit owner upon conveyance thereof to him, together with any and all other liens and encumbrances placed thereon in accordance with applicable law.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 1994.

\_\_\_\_\_  
Christie Ann Harrison, Secretary

## CASTLE POINT CONDOMINIUMS ASSOCIATION

### Amended By-Laws 1997

These by-laws shall be amended to the pre-existing by-laws of the Castle Point Condominium Association, Articles I through XIII, and will take effect on December 31, 1997

#### DEFINITION OF TERMS

- I. Long-term rental shall be considered a rental period longer than or equal to thirty days
- II. Short-term rental or occupancy shall be considered a period less than thirty days
- III. A **full-time-occupied-unit**, for the purpose of applying association by-laws, will be any unit under long-term rental or used by an owner for a period greater than or equal to 30 days per standard calendar year.
- IV. A **resident** will be any person occupying a unit for greater than or equal to 30 days per standard calendar year.
- V. A **guest** will be any person occupying a full-time-occupied unit for a period less than 30 days per standard calendar year

#### 1997 BY-LAWS

- 97-1 Each unit will be allowed a maximum of two vehicles on the property. Trailers, campers, and other towing units must be parked inside garages. Vehicles, trailers, campers, or towing units in violation of this by-law will be towed at owner's expense.
- 97-2 No pets will be allowed in any rental unit
- 97-3 Any unit owner purchasing a condominium after December 1<sup>st</sup>, 1997 may have a maximum of two pets in their unit. Sub-renters in an owner occupied unit are not allowed to have pets. Pets are limited to cats and dogs. Pets must be kept under control at all times. Dogs will not be allowed to bark uncontrollably at any time. Owners must clean up after their pets. Additional pets or different types of pets may be allowed in an owner-occupied unit with the approval of the board of directors of the association
- 97-4 All outside balconies must be kept free of snow and ice at all times. The association will shovel any deck that is not kept free of snow and ice at the owner's expense
- 97-5 Outside balconies may not be used for storage. Only gas barbecues and balcony furniture is permitted. Charcoal barbecues are not permitted on outside balconies
- 97-6 Full-time-occupied-units are limited to four residents plus their guests
- 97-7 Unit owners are responsible for the enforcement of all association by-laws by their respective renters and guests
- 97-8 Any unit under short-term rental will be limited to six occupants
- 97-9 Anyone in violation of association by-laws will be subject to fines and or legal action as determined by the association's board of directors. Anyone in violation of association by-laws will be responsible for legal fees incurred by the association
- 97-10 Annual meetings and election of Board of Directors will take place every December.

CONDOMINIUM DECLARATION  
FOR  
CASTLE POINT CONDOMINIUMS

Purvis/Rowe

This Condominium Declaration is executed this 6th day of April, 1994, at Gunnison County, Colorado by Edward Evanish and Michael C. Thomas.

1. STATEMENT OF INTENT AND PURPOSE.

1.1 Authority. This Condominium Declaration is executed to submit the Real Property to condominium ownership pursuant to the "Colorado Common Interest Ownership Act".

1.2 Intention. Declarant is the owner of the Real Property and intends to provide for condominium ownership of the Real Property.

1.3 Purpose. To accomplish this purpose, Declarant executes this Condominium Declaration for Castle Point Condominiums, to define the character, duration, rights, duties, obligations and limitations of condominium ownership in the Project.

1.4 Declaration. Declarant hereby declares that the following terms, covenants, conditions, easements, restrictions, uses, reservations, limitations and obligations shall be deemed to run with the Project and shall be binding upon and accrue to the Declarant, its successors and assigns and any person acquiring and holding an interest in the Project, its grantees, successors, heirs, personal representatives, or assigns.

2. DEFINITIONS. The following definitions shall apply in this Condominium Declaration and the exhibits attached hereto unless the context shall expressly provide otherwise:

2.1 Association - means Castle Point Condominiums Association, a Colorado nonprofit corporation which shall govern the administration of the Project.

2.2 Building - means the buildings constructed on the Real Property.

2.3 Common Elements - means all of the Project except the Units.

2.4 Common Expenses - means and includes:

2.4.1 Expenses declared common expenses by provisions of this Condominium Declaration.

2.4.2 Expenses of administration, operation, and management.

2.5 Condominium Map - means the map for Castle Point Condominiums filed April 11, 1994, and bearing Reception No. 450663 of the records of Gunnison County, Colorado.

2.6 Declarant - means Edward Evanish and Michael C. Thomas.

2.7 Declaration or Condominium Declaration - means this Condominium Declaration, and any and all duly executed amendments, supplements or additions to this Condominium Declaration.

2.8 General Common Elements - means and includes all of the common elements as defined by statute, except those portions of the Project which constitute "Units" or "Limited Common Elements."

2.9 Limited Common Elements - means any Common Element designated and reserved for the exclusive use of one or more Units but fewer than all of the Units.

2.10 Mortgage - means any real estate mortgage, deed of trust, or security instrument by which a Unit is encumbered.

2.11 Owner - means a person, firm, corporation, partnership, or other entity, or any number of combinations thereof, owning a Unit.

2.12 Project - means the Real Property and the buildings and all improvements and structures thereon, together with all rights, easements and appurtenances belonging thereto, submitted to condominium ownership by this Declaration and which may be subsequently submitted to condominium ownership under the terms of this Declaration or any supplemental Declaration as is hereinafter provided.

2.13 Real Property - means the real property described in attached Exhibit A and incorporated herein by reference.

2.14 Unit - means an individual air space unit, contained within the unfinished interior surfaces of the perimeter walls, floors, ceilings, windows and doors of an air space unit as reflected on and described in the Condominium Map, together with all fixtures and improvements therein contained except for common utility facilities, the interior decorated or finished surfaces of such Unit's interior walls, floors, ceilings, windows and doors, and the interior non-supporting or non-load bearing walls within the Unit. The interior surfaces of a window or door means the points at which such surfaces are located when such windows or doors are closed. Ownership of a Unit includes ownership of the undivided interest in the General Common Elements appurtenant thereto and any Limited Common Elements designated for the exclusive use of such Unit.

3. ESTABLISHMENT OF CONDOMINIUM OWNERSHIP. The Project is hereby divided into four (4) Units as follows:

3.1 Fee Simple Estates. Four (4) fee simple estates, each consisting of a separately designated Unit, together with an undivided interest in the General Common Elements.

3.3 Enlarge and Supplement. The number of Units and the undivided interest in the Common Elements of each Unit is subject to the right of the Declarant to enlarge and supplement the Project as provided in paragraph 39.

4. INSEPARABILITY OF A UNIT. Each Unit and the undivided interest in the Common Elements, the easements appurtenant thereto and the exclusive use of the Limited Common Elements designated for such Unit shall together comprise one Unit which shall be inseparable and may be conveyed, leased, devised or encumbered only as a Unit.

5. CONDOMINIUM MAP.

5.1 Condominium Map. A Condominium Map shall be filed for record prior to the first conveyance of a Unit shown thereon. Such map shall consist of and set forth the following:

5.1.1 The legal description of the Real Property and a survey thereof.

5.1.2 The linear measurements and locations, with reference to the exterior boundaries of the Real Property, of the Buildings and all other improvements built on the Real Property.

5.1.3 The floor and elevation plans of the Buildings.

5.1.4 The appropriate designation and identification of all Units, General Common Elements and Limited Common Elements.

5.2 Supplemental Condominium Maps. A supplemental Condominium Map shall be filed prior to the conveyance of any Units shown thereon, and each supplemental Condominium Map shall contain the same requirements as set forth for the original Condominium Map.

5.3 Amendments. Declarant reserves the right to amend any Condominium Map from time to time, to conform the same according to the actual location of any of the improvements and to establish, relocate and vacate easements, access roads and parking areas. Declarant's right under this paragraph shall terminate upon the conveyance of all of the Units set forth on the Condominium Map to which reference is made, or within one year of the date of filing the Condominium Map, whichever event shall first occur.

5.4 Certificate of Surveyor. As a part of any Condominium Map, there shall be filed for record a certificate of a registered land surveyor of the State of Colorado, certifying that the improvements as constructed conform substantially to the Map, and that the Map fully and accurately depicts the layout, measurements and location of all of the improvements on the Real Property; the Unit designations, the dimensions of such Units and the elevations of the unfinished floors and ceilings.

5.5 Interpretation. In interpreting the Condominium Map or any part thereof, the existing physical boundaries of the Units shall be conclusively presumed to be boundaries.

Unit \_\_\_\_, Castle Point Condominiums, according to the Condominium Map bearing Reception No. 450663 and the Condominium Declaration pertaining thereto in Book 743 at page 549 of the records of Gunnison County, Colorado,

Town of Mt. Crested Butte,  
County of Gunnison,  
State of Colorado.

6.2 Sufficiency. Such method of description shall be sufficient for all purposes to sell, convey, transfer, and encumber or otherwise affect the Unit and the undivided interest in the Common Elements appurtenant to the Unit and all other appurtenant properties and property rights and incorporates all of the rights, duties, limitations and burdens incident to ownership of a Unit as described in this Declaration.

6.3 Amendments. The reference to the Condominium Map and the Condominium Declaration in any instrument shall be deemed to include any supplements or amendments to the Condominium Map or the Condominium Declaration, whether or not specific reference is made thereto.

7. TITLE. A Unit may be held and owned by more than one Owner as joint tenants or as tenants in common, or in any real property tenancy or estate recognized under the laws of the State of Colorado.

8. TERM OF OWNERSHIP. The separate estate of an Owner of a Unit created by this Declaration shall continue until revoked in the manner contained in this Declaration or by operation of law.

9. NONPARTITIONABILITY AND TRANSFER OF COMMON ELEMENTS. The Common Elements shall be owned in common by all of the Owners of the Units and shall remain undivided. By the acceptance of his deed or other instrument of conveyance or assignment, each Owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Elements. Each Owner specifically agrees not to institute any action therefor. Furthermore, each Owner agrees that this paragraph 9 may be pleaded as a bar to the maintenance of such an action. A violation of this provision shall entitle the complying Owner to personally collect, jointly and severally, from the parties violating the same, the actual attorneys' fees, costs and other damages the complying Owner incurs in connection therewith. Further, all Owners covenant that, except as provided in paragraph 30, they shall neither by act nor omission, seek to abandon, subdivide, encumber, sell or transfer the Common Elements without first obtaining the written consent of at least fifty-one percent (51%) of the first mortgagees of record of the Units. Each such mortgagee shall have one vote for each mortgage owned by it. Any such action without the written consent of said mortgagees shall be null and void.

10. USE OF GENERAL COMMON ELEMENTS AND LIMITED COMMON ELEMENTS. Each Owner shall be entitled to exclusive ownership of his Unit. Each Owner may use the General and Limited Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners.

12. EASEMENTS FOR ENCROACHMENTS. In the event that any portion of the Common Elements encroaches upon any Unit or Units, or in the event that any portion of a Unit encroaches upon any other Unit or Units or upon any portion of the Common Elements, or in the event any encroachment shall occur in the future as a result of: (1) settling of a building; or (2) alteration or repair to the Common Elements; or (3) repair or restoration of a building(s) and/or a Unit(s) after damage by fire or other casualty, or condemnation or eminent domain proceedings; a valid easement shall exist for the encroachment and for the maintenance of the same so long as the building(s) stands or encroachment exists. In the event that any one or more of the Units or buildings or other improvements comprising part of the Common Elements are partially or totally destroyed and are subsequently rebuilt or reconstructed in substantially the same location, and as a result of such rebuilding any portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment shall then exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or on the Units for purposes of marketability of title or other purposes. In interpreting any and all provisions of this Declaration, subsequent deeds to and/or mortgages relating to Units, the actual location of a Unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered notwithstanding any minor deviations, either horizontally, vertically or laterally from the location of such Unit indicated on the Condominium Map.

13. RESERVATION FOR ACCESS-MAINTENANCE, REPAIR AND EMERGENCIES.

13.1 Right of Access. The Association shall have the irrevocable right to have access to each Unit and all Common Elements from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, or at any hour for making emergency repairs, maintenance or inspection therein necessary to prevent damage to the Common Elements or to another Unit.

13.2 Damages. Damage to the interior or any part of a Unit, except for Owner installed or constructed improvements, resulting from the maintenance, repair, emergency repair or replacement of any of the Common Elements or as a result of emergency repairs within another Unit shall be a common expense of all of the Owners; provided, however, that if such damage is caused by the negligence of the Owner of the Unit, his agents, employees, invitees or tenants then such Owner shall be responsible and liable for all of such damage and the cost thereof shall be the Owner's obligation and shall be immediately paid upon demand therefor.

13.3 Restoration. All damaged improvements shall be restored substantially, to the extent reasonably practical, to the same condition in which they existed prior to such damage.

13.4 Common Expense. All maintenance, repairs and replacement of the Common Elements, whether located inside or outside of any Unit (unless caused by the negligence, misuse or deliberate act of an Owner, in which case such expense shall be charged to such Owner), shall be the Common Expense of all of the Owners.

14. SEPARATE ACCESSMENTS

of Gunnison, the State of Colorado, and any other political subdivision or district having authority to tax. For the purpose of such assessment, the valuation of the Common Elements shall be apportioned among the Units in proportion to the undivided interest in the Common Elements appurtenant to such Units.

16. ASSOCIATION AS ATTORNEY-IN-FACT. This Declaration does hereby make mandatory and does constitute the irrevocable appointment of the Association as attorney-in-fact for the Owner of every Unit for all purposes with respect to the Project upon its damage, destruction, obsolescence or condemnation.

17. AUTHORITY OF ASSOCIATION.

17.1 Association as Attorney-in-Fact. The title to any Unit is hereby declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Declarant or any prior Owner shall constitute the appointment of the Association as the Owner's attorney-in-fact for the purposes expressly set forth in this Declaration.

17.2 Power of Association. The Association, as attorney-in-fact, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other document with respect to the interest of the Owner of a Unit for the purposes expressly set forth in this Declaration.

17.3 Owner's Compliance. Each Owner shall comply strictly with the provisions of this Declaration, any supplement or amendment hereto, and all decisions, resolutions, rules and regulations of the Association adopted in accordance with this Declaration. Failure to comply with any of the same shall be grounds for an action to recover any amounts due, for damages or injunctive relief or both, together with reasonable attorneys' fees and costs, incurred in connection therewith, brought by the Association on behalf of the Owners, or, in a proper case, by any aggrieved Owner.

17.4 Duty of Association. The Association shall have the duty of maintaining and repairing all of the Common Elements within the Project. The cost of all such maintenance shall be a common expense of all of the Owners. The Association shall not be required to obtain the prior approval of the Owners to cause such maintenance or repairs to be accomplished, regardless of the cost thereof.

17.5 Specific Powers and Duties of Association. In addition to all other rights, duties, privileges and liabilities of the Association, as provided by this Declaration and its Articles of Incorporation and amendments or by law, the Association shall have the following specific powers and duties and shall provide to the Owners the following services, all of which shall be paid as a part of the common expense assessments:

17.5.1 Maintenance, repair and restoration of the Common Elements, except only as otherwise provided.

17.5.2 Administration and management of the Project.

17.5.3 The heating, lighting and other utility services for all common areas.

17.5.6 To act as attorney-in-fact for the Owners in accordance with this Declaration.

17.5.7 To perform all other acts required by this Declaration, or the Articles of Incorporation and Bylaws of the Association, or any amendments thereto.

17.5.8 In addition to the foregoing, the Association shall have the right to hire one or more persons including a managing agent to perform such services. No contract or agreement for the employment of a managing agent or professional manager for the Project shall be for a term in excess of three years and any such agreement shall provide that the same may be terminated with or without cause and without payment of any termination fee on 90 days' written notice.

17.5.9 To adopt and enforce reasonable rules and regulations for the governance of the Project and which rules and regulations may specifically govern, architectural control including architectural standards and the procedure to grant any variance, use restrictions as to parking, trash and trash collection, noise, pets, and exterior communication antennas for radio, television, etc.

17.5.10 To grant easements, leases, licenses, and concessions on, through or over the Common Elements.

18. ADMINISTRATION AND MANAGEMENT BY THE ASSOCIATION.

18.1 Administration and Management. The administration and management of the Project shall be governed by this Declaration and the Articles of Incorporation and the Bylaws of the Association. In the event of any conflict between or among the provisions of the Declaration (including all supplements thereto), the Articles of Incorporation or Bylaws of the Association, the following priorities shall govern such conflict:

18.1.1 The Declaration shall control over the Articles of Incorporation and Bylaws, and

18.1.2 The Articles of Incorporation shall control over the Bylaws.

18.2 Members. The Owner of a Unit, upon becoming such Owner, shall be entitled and required to be a member of the Association and shall remain a member for the period of ownership of the Unit.

18.3 Appurtenant Right. There shall be one membership in the Association for each Unit. Such membership shall be appurtenant to the Unit and shall be transferred automatically by a conveyance of the Unit to a new Owner.

18.4 Voting. Each membership shall be entitled to one vote, and in the event the membership is held by more than one owner, the vote must be cast only as a single vote and split or divided votes of membership shall not be allowed.

18.6 Certifications. The Association shall have the full power and authority to make all certifications required by the Federal Home Loan Mortgage Corporation regarding the extent of, and limitation upon, the rights, powers, and privileges of the Association hereunder.

18.7 Rights of Declarant. Notwithstanding any other provision of this Declaration or the Articles of Incorporation of the Association, Declarant, their successors and assigns, shall have the right to appoint the members of the Board of Directors (who need not be members of the Association or Owners of Units) during the period of Declarant control, which is 10 years after the date of filing of this Declaration. The period of Declarant control shall terminate no later than the earlier of (1) 60 days after the conveyance of 75% of the Units that may be created within Castle Point Condominiums to Owners other than Declarant, (2) two years after the last conveyance of a Unit in Castle Point Condominiums by Declarant in the ordinary course of business, or (3) two years after any right to add new Units in Castle Point Condominiums was last exercised. Further, not later than 60 days after the conveyance of 25% of the Units that may be created in Castle Point Condominiums to Owners other than Declarant, at least one member and not less than 25% of the members of the Board of Directors shall be elected by the Owners other than Declarant, and not later than 60 days after the conveyance of 50% of the Units that may be created in Castle Point Condominiums to Owners other than Declarant, not less than 1/3 of the members of the Board of Directors must be elected by Owners other than Declarant.

## 19. OWNER'S MAINTENANCE RESPONSIBILITY OF UNIT.

19.1 Responsibility of Owner. The Owner of a Unit shall keep and maintain the interior of his Unit, including, but without limitation, the interior walls, ceilings, floors, windows, glass and all permanent fixtures and appurtenances thereto in a good and proper state of repair and in a clean and attractive condition.

19.2 Utilities. The Owner shall not be deemed to own any utilities running through his Unit which serve one or more other Units except as tenants in common with the other Owners. No utilities shall be altered, changed, relocated or disturbed without the prior written consent of the Association.

19.3 Obligations of Repair. Such right to repair, alter and remodel shall carry the obligation to replace any finished materials of equal or greater value removed with similar or other types or kinds of finishing materials.

19.4 Repair of Utilities. All fixtures and equipment installed within the Unit commencing at a point where the utility lines, pipes, wires, conduits or systems (which for brevity are referred to as "utilities") enter the Unit shall be maintained and kept in repair by the Owner thereof.

19.5 Structural Soundness. An Owner shall neither perform nor permit any act or work that will impair the structural soundness or integrity of the building or impair any easement or utility.

19.6 Exterior of Unit. An Owner shall not

recorded first Mortgage covering or affecting any or all of the Units consent to such revocation by an instrument(s) duly recorded in the records of Gunnison County, Colorado; except only as otherwise provided in Paragraph 16 pertaining to the appointment of the Association as attorney-in-fact in the event of damage, destruction, obsolescence or condemnation of the Project.

20.2 Amendment. This Declaration shall not be amended unless the Owners representing an aggregate ownership interest of sixty-seven percent (67%) or more of the Common Elements, and the holders of any recorded first Mortgages representing an aggregate of fifty-one percent (51%) of such first Mortgages covering or affecting any or all Units affirmatively vote and consent to such amendment.

20.3 Junior Mortgage Holders. The consent of any Junior Mortgage holders shall not be required under the provisions of this paragraph.

20.4 Percentages. In determining the appropriate percentage approval of the holders of first Mortgages, whenever such approval may be required for any action taken by the Owners pursuant to this Declaration, each first Mortgage shall have one vote for each Unit mortgaged by it.

20.5 Certificate of Amendment. The adoption of an amendment pursuant to this paragraph 20 shall be evidenced by a certificate of the secretary of the Association stating that such amendment was approved by the affirmative vote of Owners representing at least sixty-seven percent (67%) of the Common Elements and by the consent of fifty-one percent (51%) of the holders of recorded first Mortgages.

20.6 Reservation by Declarant. Notwithstanding any other provision of this Declaration, Declarant hereby reserves and is hereby granted the right and power until such time as all of the Units within the Project have been conveyed to third person purchasers, to modify and amend this Declaration for the following purposes:

20.6.1 To correct technical errors or clarify existing provisions.

20.6.2 To comply with applicable laws, ordinances or regulations of any governmental entities having jurisdiction over the Project.

20.6.3 To comply with the requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or other lenders or insurers in the secondary mortgage market, or to amend or change any provision so as to cause any such agency or entity to make, purchase, sell, insure or guarantee first mortgages on a Unit.

20.6.4 The adoption of an amendment by Declarant pursuant to this paragraph shall be evidenced by a certificate of Declarant stating that such amendment was adopted by the unilateral action of the Declarant pursuant to this paragraph.

21.2 Apportionment. The assessments and expenses pertaining to the Common Elements and to the Project as a whole shall be apportioned among all of the Owners of Units, in accordance with their undivided interest in the Common Elements as set forth herein. The Limited Common Elements shall be maintained as General Common Elements and the Owners having use thereof shall not be subject to any separate charge or assessment therefor.

## 22. AMOUNT OF ASSESSMENTS FOR COMMON EXPENSES.

22.1 Determination of Assessments. The annual assessments made for Common Expenses shall be based upon the advance estimate of the cash requirements by the Association to provide for the payment of all Common Expenses growing out of or connected with the maintenance and operation of the Common Elements, which sums may include, among other things, expenses of management, taxes and special assessments until the Units are separately assessed, premiums for all insurance which the Association is required or permitted to maintain, landscaping and care of grounds, common lighting and heating, repairs and renovations, trash collection, all water and sewer charges for all individual Units, legal and accounting fees, management fees, expenses and liabilities incurred by the Association under or by reason of this Declaration, the Articles of Incorporation and the Bylaws of the Association, any deficit remaining from a previous assessment, the creation of a reasonable contingency or other reserve or surplus fund and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners.

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

22.3 No Waiver. The omission or failure of the Association to fix such assessment for any period shall not be deemed a waiver, modification or release of the Owners from their obligation to pay the same.

22.4 Payment of Utilities. Each Owner shall be obligated to pay all charges for any separately metered utilities servicing his Unit. In the event that any utility is master metered to the Association, then such utility service shall be a part of the common assessments as above provided.

22.5 Reserve Fund. The Association shall be obligated to establish a reserve fund for the maintenance, repair and replacement of the Common Elements. The amount of such fund shall be determined by the Association and shall be funded through monthly payments of the common assessments and shall be held by the Association in a separate account, which may be an interest-bearing account, to be held in trust for the Owners for such purposes.

Incorporation or Bylaws of the Association, or permitted by law. Such special assessment shall be assessed to each Owner in accordance with his ownership interest in the Common Elements and shall be due and payable in the manner set forth in the notice of such special assessment.

23. TIME OF PAYMENTS OF ASSESSMENTS FOR COMMON EXPENSES.

23.1 Fiscal Year. The assessments of the Association shall be computed and determined on a fiscal year basis.

23.2 Payable Monthly. Unless the board of directors of the Association otherwise determines, assessments shall be payable monthly in advance on or before the tenth day of each month by the Owners of the Units. Delinquent assessments shall bear interest as provided in this Declaration.

23.3 Written Notice. The Association shall give written notice to the Owners of the Units of the annual assessment, and shall deliver to each Owner itemized statements.

24. LIEN FOR NONPAYMENT OF COMMON EXPENSES.

24.1 Lien for Nonpayment. All sums assessed to any Unit and not paid within 30 days from the date of assessment, together with interest thereon as herein provided, shall constitute a lien on such Unit in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Unit except only:

24.1.1 Tax and assessment liens on the Unit by any governmental authority.

24.1.2 All sums unpaid on a first Mortgage of record, including all unpaid obligatory advances made pursuant to such mortgage; provided, however, that the lien of the Association shall have priority and status over any other lien or Mortgage to the extent and in the manner provided in the Colorado Common Interest Ownership Act or otherwise by law.

24.2 Enforcement of Lien. Such lien may be enforced by foreclosure by the Association in the same manner as a foreclosure of a mortgage. In such foreclosure, the Owner shall be required to pay the costs and expenses for such proceedings, the cost and expenses for filing the notice of claim of lien and all reasonable attorneys' fees. The Owner shall also be required to pay to the Association the monthly assessments for the Unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power to bid in the Unit at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

24.3 Payment of Mortgage. Any mortgagee holding a lien on a Unit may pay, but shall not be required to pay, the amount secured by such lien, and upon such payment said mortgagee shall have a lien on such Unit for the amounts paid of the same rank as the lien of its Mortgage.

made. Suit to recover a money judgment for such unpaid debt shall be maintainable by the Association without foreclosing or waiving the lien securing the same. In any such event, the prevailing party may recover attorneys' fees and other costs of collection. No Owner may exempt himself from the liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or abandonment of his Unit.

## 26. STATEMENT OF ACCOUNT.

26.1 Written Statement of Account. Upon payment of a reasonable fee, and upon the written request of any Owner, prospective Owner, or holder of a mortgage of a Unit, the Association shall issue a written statement setting forth the amount of the unpaid Common Expenses, if any, with respect to the subject Unit, the amount of the current monthly assessment and the date that such assessments become due, including but not limited to insurance premiums, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith.

26.2 Joint Liability. The grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. The term "grantee" as used in this paragraph shall not apply to the holder of any first Mortgage upon a Unit, or to any person or entity acquiring title to a Unit by either sheriff's or public trustee's deed through foreclosure, or who acquires title by a deed given in lieu of foreclosure of a mortgage, deed of trust, or other security instrument encumbering such Unit.

## 27. TERMINATION OF MECHANIC'S LIEN RIGHTS AND INDEMNIFICATION.

27.1 No Lien on Common Elements. Subsequent to the completion of the improvements described on the Condominium Map, no labor performed or materials furnished and incorporated into a Unit with the consent or at the request of the Unit Owner or his agent or his contractor or subcontractor shall be the basis for filing of a lien against the Unit of another Owner not expressly consenting to or requesting the same, or against the Common Elements, except as to the undivided interest to the Unit of the Owner for whom such labor shall have been furnished.

27.2 Rights of Association. The provisions herein contained are subject to the rights of the Association, as set forth herein.

27.3 Indemnification. 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 any part thereof, of any other Owner for labor performed, or for materials furnished in work on such Owner's Unit.

28. MORTGAGING A UNIT - PRIORITY. Any Owner shall have the right from time to time to mortgage or encumber his interest in a Unit by Mortgage. A first Mortgage shall be one which has first and paramount priority under applicable law and a Mortgage imposed against the Unit by virtue of the first sale of such Unit by the Declarant shall

28.2 Release by Junior Mortgagee. That the holder of any junior Mortgage shall release, for the purpose of restoration of any improvements upon the Project, all of his right, title and interest in and to the proceeds under insurance policies upon said Project wherein the Association is named insured. Such release shall be furnished upon written request by the Association.

## 29. INSURANCE.

29.1 Required Insurance by Association. The Association shall obtain and maintain at all times, to the extent obtainable, policies involving standard premium rates as established by the Colorado Insurance Commissioner, and written with companies licensed to do business in the State of Colorado and having an acceptable insurance rating, covering the risks set forth below. The board of directors of the Association shall not obtain any policy where: (1) under the terms of the insurance company's charter, bylaws or policy, contributions or assessments may be made against the mortgagor or mortgagee's designee; or (2) by the terms of carrier's charter, bylaws or policy, loss payments are contingent upon action by the company's board of directors, policyholders or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or the mortgagor from collecting insurance proceeds. The types of coverage to be obtained and risks to be covered are as follows, to wit:

29.1.1 Fire insurance with extended coverage and standard risk endorsements, which endorsements shall include endorsements for vandalism and malicious mischief. Said casualty insurance shall insure the entire Project and any property, the nature of which is a Common Element (including all of the Units and fixtures therein initially installed by the Declarant but not including furniture, furnishings or other personal property supplied by or installed by Owners) together with all service equipment contained therein in an amount equal to the maximum replacement value, without deduction for depreciation of such coverage if available. All policies shall contain a standard non-contributory mortgage clause in favor of each mortgagee of a Unit, which shall provide that the loss, if any, thereunder, shall be payable to the Association for the use and benefit of mortgagees as their interests may appear.

29.1.2 If the Project is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards and the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, a "blanket" policy of flood insurance on the Project in an amount which is the lesser of the maximum amount of insurance available under the act or the aggregate of the unpaid principal balances of the mortgages on the Units comprising the Project.

29.1.3 Public liability and property damage insurance in such limits as the board of directors of the Association may from time to time determine, but not in an amount less than \$1,000,000.00 per injury, per person, per occurrence and umbrella liability limits of \$1,000,000.00 per occurrence, covering claims for bodily injury or

the Association in the amounts and in the forms now or hereafter required by law.

29.1.5 The Association may purchase adequate fidelity coverage against dishonesty of employees, destruction or disappearance of money or securities and forgery. Said policy shall also contain endorsements thereto covering any persons who serve the Association without compensation.

29.1.6 The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Project, including plate or other glass insurance and any personal property of the Association located thereon.

29.2 Waivers of Subrogation. All policies of insurance to the extent obtainable shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be cancelled or modified without at least ten (10) days prior written notice to all of the insureds, including mortgagees. If requested in writing by one or more of the mortgagees, duplicate originals of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered to all mortgagees at least ten (10) days prior to expiration of the then current policies. The insurance shall be carried in blanket form naming the Association as the insured, as attorney-in-fact for all of the Owners, which policy or policies shall identify the interest of each Owner (Owner's name and Unit number designation) and first mortgagee. Further, the Association shall require the insurance company or companies providing the insurance coverage described herein to provide each Owner and mortgagee a certificate of insurance in regard to such Owner's individual Unit.

29.3 Other Insurance by Owners. Owners may carry other insurance for their benefit and at their expense, provided that all such policies shall contain waivers of subrogation, and provided further that the liability of the carriers issuing insurance obtained by the board of directors shall not be affected or diminished by reason of any such additional insurance carried by any Owner.

29.4 Insurance Responsibility of Owner. Insurance coverage on furnishings, including carpet, draperies, wallpaper, and any other items of personalty or other personal property belonging to an Owner and public liability coverage within each Unit shall be the sole and direct responsibility of the Owner thereof, and the board of directors, the Association and/or the managing agent shall have no responsibility therefor.

29.5 Notice of Loss. In the event that there shall be any damage or destruction to, or loss of or taking of a Unit which exceeds \$1,000.00 or any damage or destruction to, or loss to or taking of the Common Elements which exceeds \$10,000.00, then notice of such damage or loss or taking shall be given by the Association to each first mortgagee of said Unit within ten (10) days after the occurrence of such event and the cost of repair is determined.

30. DESTRUCTION, DAMAGE, CONDEMNATION OR OBSOLESCENCE  
ASSOCIATION AS ATTORNEY-IN-FACT

irrevocably constitute and appoint the Association as their true and lawful attorney in their name, place and stead, for the purpose of dealing with the Project upon its damage, destruction, obsolescence or condemnation as is hereinafter provided. As attorney-in-fact, the Association, by its president and secretary or assistant secretary or its other duly authorized officers and agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed, or other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the powers herein granted. In the event that the Association is dissolved or becomes defunct, a meeting of the Owners shall be held within thirty (30) days after either such event. At such meeting a new attorney-in-fact, to deal with the Project upon its destruction, damage, obsolescence, or condemnation shall be appointed. Said appointment must be approved by the Owners representing an aggregate ownership interest of eighty percent (80%) or more of the Common Elements and at least eighty percent (80%) of the first mortgagees of record of the Units. Repair and reconstruction of the improvements as used in the succeeding subparagraphs means restoring the improvement(s) to substantially the same condition in which they existed prior to the damage, with each Unit and the General and Limited Common Elements having substantially the same vertical and horizontal boundaries as before, and all improvements being reconstructed or repaired in substantial conformance with the Project's original architectural plan and scheme to the extent then reasonably and economically feasible. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration, reconstruction or replacement unless all of the Owners and all first mortgagees agree not to rebuild in accordance with the provisions hereinafter set forth.

30.1 Reconstruction. In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed. The Association shall have full authority, right and power as attorney-in-fact to cause the repair and restoration of the improvement(s). Assessments for common expenses shall not be abated during the period of insurance adjustments and repair and reconstruction.

30.2 Insurance Proceeds Insufficient. If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than eighty percent (80%) of the total replacement cost of all of the Units in the Project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact, using the proceeds of the insurance and the proceeds of a special assessment to be made against all of the Owners and their Units. Such special assessment shall be a common expense and made pro rata according to each Owner's interest in the Common Elements and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have full authority, right and power as attorney-in-fact, to cause the repair, replacement or restoration of the improvement(s) using all of the insurance proceeds for such purpose, notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his Unit and may be enforced and collected as is provided in paragraph 24. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Unit of any Owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall

30.2.1 For payment of taxes, special assessments liens, and municipal liens, in favor of any assessing entity and the customary expenses of sale;

30.2.2 For payment of the balance of the lien and any first mortgage;

30.2.3 For payment of unpaid common expenses and all costs, expenses and fees incurred by the Association;

30.2.4 For payment of junior liens and encumbrances in the order of and to the extent of their priority; and

30.2.5 The balance remaining, if any, shall be paid to the Owner.

30.3 Election Not to Repair. If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is more than eighty percent (80%) of the total replacement cost of all of the Units in the Project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of a special assessment to be made against all of the Owners and their Units, provided, however, that Owners representing an aggregate ownership interest of eighty percent (80%) or more of the Common Elements and at least eighty percent (80%) of the first mortgagees of record may agree not to repair or reconstruct the improvements; and in such event, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's president and secretary or assistant secretary, the entire Project shall be sold by the Association pursuant to the provisions of this section, as attorney-in-fact, for all of the Owners, free and clear of the provisions contained in this Declaration and this map. Assessments for common expenses shall not be abated during the period prior to sale. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each Owner's interest in the Common Elements, and such divided proceeds shall be paid into separate accounts, each such account representing one of the Units. Each such account shall be in the name of the Association, and shall be further identified by the Unit designation and the name of the Owner. From such separate account the Association, as attorney-in-fact shall forthwith use and disburse the total amount of each of such accounts, without contribution from one lien of any first mortgagee encumbering the Unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire property. Such apportionment shall be based upon each Owner's interest in the Common Elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in paragraphs 30.2.1 through 30.2.5. In the event that the damage is to be repaired or reconstruction is to be made then the provisions of paragraph 30.2 shall apply.

and reconstruction. The Association, as attorney-in-fact, shall have the absolute right and power to sell the Unit of any Owner refusing or failing to pay such assessment within the time provided, and if not so paid the Association shall cause to be recorded a notice that the Unit of the delinquent Owner shall be sold by the Association. The delinquent Owner shall be required to pay to the Association the costs and expenses for filing the notices, interest as specified herein, and all reasonable attorneys' fees. The proceeds derived from the sale of such Unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in paragraph 30.2.1 through 30.2.5.

30.5 Sale on Obsolescence. The Owners representing an aggregate ownership interest of eighty percent (80%) or more of the Common Elements may agree that the Units are obsolete and that the same should be sold. Such plan or agreement must have the approval of not less than eighty percent (80%) of the first mortgagees of record of the Units. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's president and secretary or assistant secretary, the entire Project shall be sold by the Association, as attorney-in-fact, for all of the Owners, free and clear of the provisions contained in this Declaration and the Condominium Map. The sale proceeds shall be apportioned among the Owners on the basis of each Owner's interest in the Common Elements, and such apportioned proceeds shall be paid into separate accounts, each account representing one Unit. Each such account shall be in the name of the Association and shall be further identified by the Unit designation and the name of the Owner. From each separate account, the Association, as attorney-in-fact shall use and disburse the total amount of each of such accounts, without contribution from one account to another for the same purposes and in the same order as is provided in paragraphs 30.2.1 through 30.2.5.

31. CONDEMNATION. If at any time or times during the continuance of the condominium ownership pursuant to this Declaration, all or any part of the Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this paragraph shall apply:

31.1 Proceeds. All compensation, damages or other proceeds therefrom, the sum of which is hereafter called the "condemnation award" shall be payable to the Association.

31.2 Complete Taking.

31.2.1 In the event that the entire Project is taken, condemned or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership pursuant hereto shall terminate. The condemnation award shall be apportioned among the Owners on the same basis of each Owner's interest in the Common Elements, provided however, that if a standard different from the value of the property as a whole is employed as the measure of the condemnation award in the negotiation, judicial decree or otherwise, then in determining such shares the same standard shall be employed to the extent it is applicable.

31.3 Partial Taking. In the event that less than the entire Project is taken or condemned, sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the condemnation award to be determined in the following manner: as soon as practicable the Association shall reasonably and in good faith, allocate the condemnation award between compensation, damages or other proceeds and shall apportion the amounts so allocated among the Owners as follows: (i) the total amount allocated to taking of or injury to the Common Elements, shall be apportioned among the Owners on the basis of each Owner's interest respectively in the Common Elements; (ii) the total amount allocated to severance damages shall be apportioned to those Units which were not taken or condemned; (iii) the respective amounts allocated to the taking of or damage to a particular Unit and to the improvements an Owner has made within his own Unit shall be apportioned to the particular Unit involved and (iv) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances or as determined by judicial decree. If the allocation of the condemnation award is already established in negotiations, judicial decree or otherwise, then in allocating the condemnation award the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be disbursed as soon as practicable in the same manner provided in paragraphs 30.2.1 through 30.2.5.

31.4 Notification to Mortgagees. The Association shall timely notify each first mortgagee of any Unit of the commencement of the condemnation proceedings or eminent domain proceedings and shall notify said first mortgagees in the event of the taking of all or any part of the Common Elements, if the value of the Common Elements taken exceeds \$10,000.00.

32. PROPERTY FOR COMMON USE. The Association may acquire and hold for the use and benefit of all of the Owners, real and personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be owned by the Owners in the same proportion as their respective interests in the Common Elements and shall not be transferable except with a transfer of a Unit. A conveyance of a Unit shall transfer to the grantee ownership of the grantor's beneficial interest in all such property acquired and held by the Association.

33. REGISTRATION BY OWNER OF MAILING ADDRESS.

33.1 Register Mailing Address. Each Owner shall register his mailing address with the Association, and except for monthly statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands or other notices intended to be served upon the Association shall be sent by certified mail, postage prepaid, to the address of the Association.

33.2 Single Address for Mailing. In the event any Unit is owned by more than one person, or by a partnership, joint venture, corporation, or other such entity, the Owners thereof shall designate to the Association in writing the name and address of the

Owners and the Association may take such action, including judicial action as may be necessary to enforce compliance with such rules and regulations and to obtain damages and reasonable attorneys' fees for noncompliance to the extent permitted by law.

35. ADDITIONAL RIGHTS OF HOLDERS OF FIRST MORTGAGE. In addition to any other rights provided in this Condominium Declaration, any first Mortgage holder who shall make a request in writing to the Association, shall have the following additional rights:

35.1 Annual Financial Statement - To be furnished a copy of the annual financial statement of the Association, and to be further furnished an audit of the Association, if the same is performed, such documents to be furnished at the same time that they are furnished to the Owners.

35.2 Notice of Amendment - To be given written notice by the Association of any meeting of the Association called for the purpose of considering any amendment, revocation or change to the Condominium Declaration. Such notice shall state the nature of any such change being proposed.

35.3 Notice of Default - To be given written notice of any default by an Owner of a Unit encumbered in favor of the first mortgagee in the performance of any duty or obligation required hereunder or rules and regulations of the Association, which default remains uncured more than 30 days following notice to the defaulting Owner.

### 36. GENERAL.

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

36.2 Additional Provisions. The provisions of this Declaration shall be in addition and supplemental to the Colorado Common Interest Ownership Act and to all other provisions of law.

36.3 Context of Words. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

36.4 Rate of Delinquent Interest. Unless the board of directors of the Association determines otherwise, any and all sums, amounts, expenses, assessments or any funds due and payable as provided in this Declaration which are not paid within ten (10) days of the date that the same are due and payable shall bear interest at the rate of one and one-half percent (1-1/2%) per month from the date that the same were first due and payable to the date until paid.

for said breach, and/or to obtain injunctive relief, in any court of competent jurisdiction.

37. APPLICABLE LAW. This Declaration is filed in the records of Gunnison County, Colorado and it is agreed that the proper jurisdiction and venue of any action pertaining to the interpretation or enforcement of this Declaration shall be in the District Court of Gunnison County, Colorado.

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

39. RESERVATION TO ENLARGE.

39.1 Enlargement Rights. Declarant, for itself, its successors and assigns, expressly reserves the right to construct additional Units and Common Elements ("Additional Improvements") on any part of the Real Property described in attached Exhibit C ("Supplemental Property") and to subject the same to the provisions of this Declaration at any time within ten years from the date of recording of this Declaration, all as set forth in this paragraph 39. The consent of any existing Owners or mortgagees or any other person shall not be required for any such enlargement and expansion and Declarant may proceed with such enlargement and expansion without limitation at its sole option. Included within such right shall be the right of Declarant to utilize the Common Elements of the Project (including driveways) to gain access to the Supplemental Property and to utilize the Supplemental Property for all purposes incidental to construction of the Additional Improvements thereon (including storage of construction materials and equipment).

39.2 Development Rights. As of the filing of this Declaration and the Condominium Map, the Supplemental Property constitutes General Common Elements of the Project. Included within the reservation to enlarge under this paragraph 39 is the right of Declarant to designate the Supplemental Property (or any portion thereof) as additional Units or Limited Common Elements by the filing for record of a supplemental Condominium Map and a supplement to this Declaration. Any portion of the Supplemental Property so designated as additional Units or Limited Common Elements shall cease to constitute General Common Elements upon such filing, without any consent of or notice to any Owner or mortgagee or any other person.

39.3 Supplement to Declaration. At such time as construction of the Additional Improvements on the Supplemental Property is substantially complete, Declarant shall file for record a supplement to this Declaration reallocating the interest in the Common Elements so that the undivided interest in and to the Common Elements appurtenant to each Unit will be apportioned according to the total number of Units submitted to this Declaration. The undivided interest in the Common Elements appurtenant to each Unit in the Project, as expanded, shall be based upon a fraction, the numerator of which is 1 and the denominator of which is the total number of Units in the Project as expanded.



EXHIBIT A

A portion of Lot 24, CHALET VILLAGE ADDITION NO. 3, according to the replat thereof filed for record September 15, 1964 bearing Reception No. 260619, and being described by metes and bounds as follows:

Beginning at the Southwesterly corner of said Lot 24 (a steel bar and yellow plastic stamped "BENNER L.S.9476");

THENCE following the Westerly property line of Lot 24 N13°16'00"W a distance of 135.20 feet;

THENCE continuing along the Westerly property line of Lot 24 N 05°50'00"E a distance of 32.53 feet;

THENCE following the Northwesterly property line of Lot 24 N70°49'00"E a distance of 96.91 feet;

THENCE S19°11'00"E a distance of 26.98 feet;

THENCE S32°38'56"E a distance of 54.49 feet;

THENCE S52°14'00"W a distance of 47.21 feet;

THENCE S37°46'00"E a distance of 35.86 feet to a point on the Southeasterly property line of Lot 24;

THENCE following said Southeasterly property line S52°14'00"W a distance of 109.68 feet to the place of beginning,

Town of Mt. Crested Butte,  
County of Gunnison,  
State of Colorado

EXHIBIT B

<u>Unit No.</u>	<u>Undivided Fractional Ownership Interest in Common Elements</u>
1	1/8
2	1/8
3	1/8
4	1/8
5	1/8
6	1/8
7	1/8
8	1/8

AMENDMENT TO SUPPLEMENTAL CONDOMINIUM DECLARATION FOR  
CASTLE POINT CONDOMINIUMS, PHASE II

This Amendment to the Supplemental Condominium Declaration for Castle Point Condominiums, Phase II (this "Amendment") is executed this 26 day of November, 1997, by EDWARD EVANISH and MICHAEL C. THOMAS ("Declarant"), GEOFFREY J. HOULDEY and LIANA HOULDEY ("Houldeys") and the TOWN OF MT. CRESTED BUTTE, COLORADO.

RECITALS

A. On December 21, 1994, Declarant recorded that certain Supplemental Condominium Declaration for Castle Point Condominiums, Phase II, in Book 757 at Page 587 of the records of Gunnison County, Colorado.

B. Article 6 of the Supplemental Condominium Declaration reserves Unit 5 for use as an employee housing unit. Paragraph 6.2 of said Declaration states as follow:

"6.2 Declarant and the owner of Unit 5 reserve the right to remove this restriction from Unit 5 and impose it upon another condominium unit (whether or not within Castle Point Condominiums) that complies with the requirements of said Ordinance No. 4, Series 1985, provided that the Mt. Crested Butte Town Council approves same."

C. Houldeys are the owners of Unit 5, Castle Point Condominiums.

D. Declarant and Houldeys desire to remove the employee housing restriction from Unit 5, pursuant to paragraph 6.2 of the Supplemental Condominium Declaration, and the Town Council for the Town of Mt. Crested Butte has approved the same by appropriate resolution.

NOW, THEREFORE, the parties agree as follows:

Unit 5 of Castle Point Condominiums, Gunnison County, Colorado, shall no longer be subject to any employee housing restriction, whether imposed pursuant to Ordinance No. 4, Series 1985, or pursuant to Ordinance No. 1, Series 1994, of the Municipal Code of the Town of Mt. Crested Butte. Paragraph 6 of the Supplemental Condominium Declaration for Castle



Point Condominiums, Phase II, is therefore deleted in its entirety.

DATED this 26 day of November, 1997.

DECLARANT:

[Signature]  
EDWARD EVANISH

EDWARD EVANISH

[Signature]  
MICHAEL C. THOMAS

MICHAEL C. THOMAS

OWNERS:

[Signature]  
GEOFFREY J. HOULDEY

GEOFFREY J. HOULDEY

[Signature]  
LIANA HOULDEY

LIANA HOULDEY

TOWN OF MT. CRESTED BUTTE,  
COLORADO

By [Signature]  
Bill Dickerson, Mayor

Bill Dickerson, Mayor

ATTEST:

[Signature]  
Laura W. Welch, Town Clerk

Laura W. Welch, Town Clerk

STATE OF COLORADO )  
 )ss.  
COUNTY OF San Luis Obispo )

The foregoing AMENDMENT TO SUPPLEMENTAL CONDOMINIUM  
DECLARATION FOR CASTLE POINT CONDOMINUMS, PHASE II is subscribed and sworn  
to before me this 1st day of November, 1997, by Edward Evanish.  
DECEMBER 22, 1997

Witness my hand and official seal.  
My Commission expires: 6/2/2000



[Signature]  
Notary Public

Notary Public

