



**CONDOMINIUM DECLARATION  
FOR  
Hi-Country Haus No. 11 Condominium Apartments**

KNOW ALL MEN BY THESE PRESENTS,

THAT WHEREAS, Hi-Country Haus, Inc., a Colorado corporation, hereinafter called "Declarant," does hereby establish by this Declaration a plan for the ownership in fee simple of real property estates consisting of the area or space contained in each of the apartment units in the building improvement and the co-ownership by the individual and separate owners thereof, as tenants in common, of all of the remaining real property which is hereinafter defined and referred to as the general common elements;

Now, THERFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with the land, shall be a burden and a benefit to Declarant, its successors and assigns and any persons acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees or assigns.

1. DEFINITIONS, unless the context shall expressly provide otherwise.
  - (a) "Apartment" or apartment unit means an individual air space unit which is contained within the perimeter walls, floors and ceilings of the building as shown on the map.
  - (b) "Condominium unit" means an individual air space unit together with the interest in the general and limited common elements appurtenant thereto.
  - (c) "Owner" means a person, firm, corporation, partnership, association or other legal entity, or any combination thereof, who owns one or more condominium units or any undivided interest therein.
  - (d) "General common elements" means and includes:
    - (1) The land on which the building is located.
    - (2) The foundations, columns, girders, beams, supports, balconies, floors, perimeter and supporting walls, roof and stairways of the building;
    - (3) The yards, gardens and parking areas located within the perimeters of the land on which the building is located.
    - (4) The installations consisting of the equipment and materials using the central services such as power, light, gas, hot and cold water, in the building or on the site, except for metered utilities, in which case the general common elements shall be all installations from the building side of the meter into the building and not including the meter.
    - (5) The tanks, pumps, motors, fans, compressors, and ducts and in general all apparatus existing for common use in the building or on the site, except as qualified in the previous paragraph.
    - (6) Boiler and utility room.



- (7) All other parts of the property not heretofore mentioned necessary or convenient to its existence, maintenance and safety, or normally in common use.
  - (e) "Limited common elements" means those parts of the general common elements reserved for the exclusive use of the owner of a condominium unit.
  - (f) "Entire premises" or "property" means and includes the land, the building, all improvements and structures thereon, all owned in simple absolute, and all rights, easements and appurtenances belonging thereto.
  - (g) "Common expense" means and includes:
    - (1) All sums lawfully assessed against the general common elements;
    - (2) Expenses of administration, maintenance, repair or replacement of the general common elements;
    - (3) Expenses agreed upon as common expense by the unit owners; and
    - (4) Expenses declared common expenses by the provisions of this Declaration and the Bylaws.
  - (h) "Association of Unit Owners" or "Association" means a Colorado nonprofit corporation the members of which shall be all of the owners of the condominium units.
  - (i) "Building" means the one building improvement comprising a part of the property.
  - (j) "Managing Agent" means the contracted condominium management company.
  - (k) "Map" or "plans" means and includes the engineering survey of the land, located thereon all of the improvements, the floor and elevation plans and any other drawing or diagrammatic plan depicting a part of or all of the improvements.
  - (l) "Association Manager" means the party designated by the Board of Managers of the Association to conduct its business affairs in its behalf.
2. A map or maps shall be filed with the clerk and recorder and shall consist of and set forth (1), the legal description of the surface of the land; (2), the linear measurements and location, with reference to the exterior boundaries of the land, of the building and all other improvements build or to be build on said land by Declarant; (3), the floor plans; the designation and the linear dimensions of each apartment unit; (4) the elevations of the unfinished interior surfaces of the floors and ceilings as established from a datum plane.
  3. The property is hereby divided into the following fee simple estates:
    - (a) 18 fee simple estates consisting of 15 separately designated apartment units, each such unit identified by a number or series of numbers on the map.
    - (b) The remaining portion of the entire premises referred to as the general common elements which shall be held in common by the owners, each such undivided interest having a percentage of the general common elements as follows:



Unit Designated as	% of general common element
Unit 1	6.00%
Unit 2	5.87%
Unit 3	5.89%
Unit 4	6.06%
Unit 5-6	8.26%
Unit 7	6.00%
Unit 8	5.87%
Unit 9	5.89%
Unit 10	6.06%
Unit 11-12	10.14%
Unit 13	6.00%
Unit 14	5.87%
Unit 15	5.89%
Unit 16	6.06%
Unit 17-18	10.14%
Totals	100.00%

Such undivided interest, being the appurtenant to one of the apartment units.

4. A portion of the general common elements is set aside and reserved for the exclusive use of the owners of the respective apartment units and such areas shall be known and referred to as the "limited common elements." The limited common elements so allocated and reserved are described, located and shown on the map by legend, symbol or words. The limited common elements shall be used in connection with a particular apartment unit not excluding their use as a walkway to other units or stairs.
5. Each apartment and the undivided interest in the general common elements and the limited common elements, if any, appurtenant thereto shall be inseparable and may be conveyed, leased or encumbered only as a condominium unit.
6. Every deed, lease, mortgage, trust deed or other instrument may legally describe a condominium unit by its identifying apartment unit number, followed by the words, Hi-Country Haus Condominium No. 11, with further reference to the map filed for record and the recorded Declaration. Every such description shall be good and sufficient for all purposes to convey, transfer, encumber, or otherwise affect the general common elements and the limited common elements, if any, appurtenant thereto, and each description shall be construed to include a non-exclusive easement for ingress and egress and for use of the general common elements, together with the right to use the limited common elements, if any.
7. Declarant shall give written notice to the assessor of Grand County, Colorado, of the creation of condominium ownership of this property, as is provided by law, so that each unit and its percentage of undivided interest in the general common elements shall be deemed a parcel and subject to the separate assessment and taxation.



8. A condominium unit shall be held and owned by more than one person as joint tenants or as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Colorado.
9. The general common elements shall be owned in common by all of the owners of the apartment units and shall remain undivided, or no owner shall bring any action for partition or division of the general common elements. Nothing contained herein shall be construed as a limitation of the right of partition of a condominium unit between owners thereof, but such partition shall not affect any other condominium unit.
10. Each owner shall be entitled to exclusive ownership possession of his apartment. Each owner may use the general common elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other owners.
11. Each apartment shall be used and occupied solely for the purpose of lodging or as a dwelling by the owner or by the owner's family, guests, agents, employees, invitees, licensees or tenants.
12. If any portion of the general common elements encroaches upon an apartment unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion of an apartment unit encroaches upon the general common elements, or upon an adjoining apartment unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the general common elements or the apartment units.
13. Subsequent to the completion of the improvements described on the map, no labor performed or materials furnished and incorporated in an apartment 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 the filing of a lien against the apartment unit of any other unit owner not expressly consenting to or requesting the same, or against the general common elements. Each owner shall indemnify and hold harmless each of the other owners from and against all liability arising from the claim of any lien against the apartment unit or any other owner or against the general common elements for construction performed or for labor, materials, services or other products incorporated in the owner's apartment unit at such owner's request.
14. The administration of this condominium property shall be governed by the Bylaws of the Theta Condominium Association, a Colorado nonprofit corporation, hereinafter referred to as the "Association". An owner of the condominium unit, upon becoming such an owner, shall remain a member for the period of his ownership.
15. The owners shall have the irrevocable right, to be exercised by the Association Manager, Managing Agent or Board of Managers of the Association, to have access to each apartment unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the general common elements therein or accessible there from, or for making emergency repair therein necessary to prevent damage to the general common elements or to



- another apartment unit or units. Damage to the interior or any part of an apartment unit or units resulting from maintenance, repair, emergency repair, or replacement of any of the general common elements or as a result of emergency repairs within another apartment unit at the instance of the Association, Association Manager or Managing Agent, shall be a common expense of all the owners; provided, however, that if such damage is the result of negligence of an apartment unit owner, then such unit owner shall be responsible for all of such damage. Restoration of the damage improvements shall be substantially the same as the condition in which they existed prior to the damage.
16. An owner shall maintain and keep in repair the interior of his apartment including fixtures thereof. All fixtures and equipment installed within the apartment unit commencing at a point where the utility lines, pipes, wires, conduits or systems (which for brevity are hereafter referred to as "utilities") enter the apartment unit shall be maintained and kept in repair by the owner thereof.
  17. An owner shall do no act or any work that will impair the structural soundness or integrity of the building or repair any easement or hereditament.
  18. Any owner shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding his respective apartment unit, nor shall owner be deemed to own the utilities running through his apartment unit which are utilized for, or serve more than one apartment unit, except as a tenant in common with the other owners. An owner, however, shall be deemed town and shall maintain the inner decorated and/or finished surfaces of the perimeter walls, floors and ceilings, doors and windows and other elements consisting of paint, wallpaper and other finishing materials and the interior non-supporting walls contained within the apartment unit.
  19. Each unit shall comply strictly with the provision of the Declaration, the Bylaws, the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time, and the rules and regulations of the Managing Agent for the common benefit of the condominium owners as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Association Manager or Board of Managers on behalf of the owners or, in a proper case, by an aggrieved owner or the Managing Agent.
  20. This Declaration shall not be revoked nor shall any of the provisions herein be amended unless the owners representing an aggregate ownership interest of sixty-five per cent, or more, of the general common elements, and all of the holders of any recorded mortgage or deed of trust covering or affecting any or all condominium units unanimously consent and agree to such revocation or amendment by instruments (s) duly recorded; provided, however, that the percentage of the undivided interest in the general common elements appurtenant to each apartment unit, as expressed in this Declaration, shall have a permanent character and shall not be altered without the consent of all of the unit owners expressed in an amended Declaration duly recorded; and provided further that the provisions of paragraph 21 relating to the imposition of an assessment for recreational purposes, and the provisions in paragraph 22 relating to property



management and services may not be amended for periods of ten and twenty years respectively from the date of recording of this Declaration, following which said provisions may be amended by sixty-five per cent, or more of the then owners of the general common elements and unanimous consent of all mortgage holders as previously provided. (Note "this declaration" refers to the original Declaration filed 9:00 AM, December 7, 1971. So 10 and 20 year provisions listed in this section have elapsed.)

21. All owners shall be obligated to pay the estimated assessments imposed by the Board of Managers or Association Manager or Managing Agent of the Association to meet the common expenses. Said assessments, including insurance premiums, shall be made pro-rata according to each owner's percentage interest in and to the general common elements, except for such items that bear a direct cost to each individual unit, including those items determined by the Board of Managers of said Association and/or the Managing Agent to have said direct cost relationship. The limited common elements shall be maintained general common elements, and owners having exclusive use thereof shall not be subject to any special charges or assessments. Assessments for the estimated common expenses, including insurance, shall be due monthly on the first day of each month. The Managing Agent or Board of Managers shall prepare and deliver or mail to each owner an itemized monthly statement showing the various estimated or actual expenses for which the assessments are made. All owners shall be obligated to pay as billed an assessment to the Managing Agent a monthly assessment of not less than \$10.00 and not to exceed 1% of the assessed valuation of each condominium unit in the building, as determined by the records of the Grand County Assessor and/or Treasurer for the year preceding the month in which the aforementioned assessment is made. Such assessment shall be for the recreational purposes and/or other costs allocated to the development of recreational facilities and the obligation to pay such monthly assessment shall be deemed to be and operate as a covenant running with the land upon which the condominium apartment is build and where recreational facilities are being developed. In consideration of this payment, the Managing Agent has constructed an appropriate recreational facilities and equipment. All recreational facilities constructed and installed shall be maintained and all recreational activities shall be conducted by the Managing Agent with the costs thereof charged against the recreational assessment and revenues derived from recreational activities. The word "costs" as used herein shall include but not be restricted to installation, maintenance, repairs, management, general and administrative over head, and reasonable profit. Said recreational facilities and activities shall be reserved for the use of owners, family of owners, tenants of owners and their families and guests who are residing with such parties, as well as guests authorized by the Managing Agent, of this specific condominium building. Certain occupants of other Hi-Country Haus Condominiums and occupants of any additional condominium or other buildings hereafter built on those premises located in the E ½ SW ¼ of said Sec. 28 as described in deed recorded in Book 158, page 97, Grand Country records, are also qualified to use said recreational facilities and to participate in said recreational activities. In further consideration of said



recreational facilities, the parties making use of the same agree and will agree to abide by rules and regulations to be published by the Managing Agent governing the use thereof. Contribution for monthly assessments shall be prorated if the ownership of a condominium unit commences on a day other than the first of a month.

22. An assessment against all apartment owners shall be made and shall be based upon the cash requirements deemed to be such sum as the Condominium Association Manager and Board of Managers of the Association shall from time to time determine is to be paid by all of the owners, including Declarant, to provide for the payment of actual and estimated expenses growing out of or connected with the maintenance and operation of the general common elements, which sum may include, among other things, operating and administration expenses of the Association Manager or Board of Managers; taxes and special assessments until separately assessed; fire with extended coverage and vandalism and malicious mischief insurance with endorsements attached issued in the amount (and also all fixtures; interior walls and partitions; decorated doors; windows and other elements or materials comprising a part of the apartment units); casualty and public liability and other insurance premiums; landscaping, gardening and care of grounds other than roads and parking lots; repairs and maintenance of the building and capital improvements to the general common elements; expenses and liabilities incurred by the Condominium Association Manager or Board of Managers under or by reason of the Declaration; the payment of any deficit remaining from a previous period; the creation of a reasonable contingency or other reserve or surplus fund as well as other costs and expenses relating to the general common elements.

For a term of twenty years from the date of recording of this Declaration the owners of condominium units and the Association do hereby confer upon the Managing Agent the sole and exclusive right to do and perform or cause to be performed the following: trash and garbage removal; road and parking lot maintenance; snow and debris removal from roads and paths; caretaker and security guard services; and all other continuing services of a like nature required in the entire area. The Managing Agent shall also have the right to engage public utility services and facilities in its name, including sewer, water, gas and electricity. The Managing Agent shall impose its reasonable charges and assessments for the foregoing services and bill each unit owner individually therefore. Said charges shall include expenses of accounting, administration and invoicing. Any and all unpaid charges for these services and for the recreational assessment provided for in paragraph 21 shall be a lien against the unit of each party who fails to make payment of the same, collectible in the manner set forth in paragraph 24. The omission or failure of the Board of Management or Managing Agent to fix assessments for any month shall not be deemed a waiver, modification or a release of the owners from their obligation to pay.

The Association Manager or Board of Managers shall obtain and maintain at all times insurance of the type and kind provided hereinabove, and including for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to



other apartment or condominium buildings, fixtures, equipment and personal property, similar in construction, design and use, issued by responsible insurance companies, authorized to do business in the State of Colorado. The insurance shall be carried in blanket policy form naming the Association the insured, which policy or policies shall identify the interests of each condominium unit owner and which shall provide for a standard, noncontributory mortgagee clause in favor of each first mortgagee. It shall also provide that it cannot be cancelled by either the insured or the insurance company until after ten days' prior written notice to each owner and each first mortgagee. Said Association Manager or Board of Managers shall, upon request of any first mortgagee, furnish a certified copy of such blanket policy and a separate certificate identifying the interest of the mortgagor. All policies of insurance shall provide that the insurance there under shall be invalidated or suspended only in respect to the interest of any particular owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including nonpayment of the insurance premium applicable to that owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under any such policy, as to the interests of all other insured owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect. Determination of maximum replacement value of all condominium units (for insurance purposes) shall be made by one or more written appraisals, whenever requested in writing by the owners of 3 or more apartments and copies of such appraisals shall be furnished forthwith to each mortgagee of a condominium unit. In addition, each owner shall be notified of such appraisal(s).

23. No owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his apartment.
24. All sums assessed but unpaid for the share of common expenses chargeable to any condominium unit, and all sums assessed against any condominium unit but unpaid for any share of recreational expenses set forth in paragraph 21 above, shall constitute a lien on such unit superior (prior) to all other liens and encumbrances, except only for:
  - (a) Tax and special assessment liens on the unit in favor of any assessing unit, and
  - (b) All sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance.

To evidence such lien, the Association Manager or any officer or director of the Board of Managers or Board of Directors of the Association, or any officer of Managing Agent may, but shall not be required to prepare and execute a written notice setting forth the amount of such unpaid indebtedness, the name of the owner of the condominium unit and a description of the condominium unit. Such notice may be recorded in the office of the



Clerk and Recorder of Grand County, Colorado. Such lien for the common expenses shall attach from the date of the failure of payment of the assessment. Such lien may be enforced by foreclosure of the defaulting owner's condominium unit by the Association or Managing Agent in like manner as a mortgage on real property upon the recording of a notice of claim thereof. In any such foreclosure the owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorney's fees. The owner shall also be required to pay to the Association or Managing Agent continuing monthly assessments for the condominium unit during the period of foreclosure, and the Association or Managing Agent shall have the power to bid in the condominium unit at foreclosure sale and to acquire and hold, lease, mortgage and convey same. The amount of the common expenses assessed against each condominium unit shall also be a debt of the owner thereof at the time the assessment is made. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing same. An encumbrancer holding a lien on a condominium unit may pay any unpaid common expense payable with respect to such unit, and upon such payment such encumbrancer shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance.

25. Upon payment of a reasonable fee not to exceed Ten Dollars to each, and upon the written request of any owner or any mortgagee or prospective mortgagee of a condominium unit, the Association, by its Association Manager or Board of Managers, and the Managing Agent shall issue written statements setting forth the amount of the unpaid expenses, if any, with respect to the subject unit, the amount of the current monthly assessments and the date that such assessments become due, credit for advanced payments or for prepaid items, including but not limited to insurance premiums, which shall be conclusive upon the Association and Managing Agent in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within ten days, all unpaid expenses which become due prior to the date of making such request shall be subordinate to the lien of the person requesting such statement. The grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his proportionate share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore; provided, however, that, upon payment of a reasonable fee not to exceed Ten Dollars to each, and upon written request any such prospective grantee shall be entitled to a statement from the Association Manager or Board of Managers, and the Managing Agent setting forth the amount of the unpaid assessments, if any, with respect to the subject unit, the amount of the current monthly assessments and the date such assessments become due, credit for advanced payments or for prepaid items, including but not limited to insurance premiums, which shall be conclusive upon the Association and Managing Agent. Unless such request for a statement of indebtedness shall be complied with within ten days of such request, then such grantee shall not be liable for, nor shall the unit conveyed by subject to a lien for, any unpaid assessments against the subject unit.



26. Any owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage or other security instrument. A first mortgage or encumbrance shall be one which has first and paramount priority under applicable law. The owner of a condominium unit may create junior mortgages on the following conditions: (1) That any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for common expenses, and other obligations created by this Declaration and by the Bylaws; (2) That the mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises which insurance policies were effected and placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of the Association.
27. In the event any owner of a condominium unit other than the Declarant shall wish to sell or lease the same, and shall have received a bona fide offer thereof from a prospective purchaser or tenant, the Association Manager shall be given immediate written notice thereof, together with an executed copy of such offer and the terms thereof. Said owner desiring to sell or lease shall be deemed to have complied with the notice requirements hereof after having delivered his duplicate offer to the Association Manager. The right of first refusal herein provided shall not apply to leases or sub-leases having a term of less than ninety days. Such notice and copy shall be given by the Association Manager to the Board of Managers for all of owners. The remaining unit owners through the Board of Managers, or a person named by them, shall have the right to purchase or lease the subject apartment upon the same terms and conditions as set forth in the offer therefor, provided written notice of such election to purchase or lease must be given to the selling or leasing owner, and a matching down payment or deposit must be provided to the selling or leasing owner during the twenty-day period immediately following the delivery of the notice of the bona fide offer and copy thereof to purchase or lease. A written statement signed by the president or other duly elected officer of the Association, stating substantially that the selling or leasing owner has complied with the provisions of this paragraph 27, shall create a conclusive presumption that such selling or leasing owner has met the requirements imposed by this paragraph 27. Compliance with the requirements of this paragraph may also be shown by statement appearing upon the deed of conveyance from the former owner or owners to the new owner or owners stating as follows: "Requirements of paragraph 27 of Declaration met," followed by the name of the Association and the signature and title of the authorized officer executing same.

In the event the owner shall attempt to sell or lease his condominium unit without affording to the other unit owners the right of first refusal as herein provided, such sale or lease shall be wholly null and void and shall confer no title or interest whatsoever upon the intended purchaser or lessee.



The subleasing of said interest for over ninety days shall be subject to the same limitations as are applicable to the leasing or renting thereof. The liability of the condominium unit owner under these covenants shall continue, notwithstanding the fact that he may have leased or rented said interest as provided herein.

In no case shall the right of first refusal reserved herein affect the right of an owner to subject his interest in the project parcel to a deed of trust, mortgage or other security instrument.

The failure of or refusal by the Board of Managers to exercise the right to so purchase or lease shall not constitute or be deemed to be a waiver of such right to purchase or lease when an owner receives any subsequent bona fide offer from a prospective purchaser or tenant.

The right of first refusal, as provided herein, shall extend and run for the period of the lives of Victor T. Vestman, Theodore D. Butler, James D. Miller, or the survivor of them, plus twenty-one years.

Except as is otherwise provided in paragraph 28, and except upon a transfer of title to a Public Trustee or to a mortgagee, each grantor of a condominium unit, upon transferring or conveying his interest, shall incorporate in such instrument of conveyance an agreement that the grantee carry out the provisions of the "right of first refusal" as provided in this paragraph. A statement in the instrument of conveyance which provides that the grantee takes subject to the provisions of this declaration shall constitute compliance with the requirements of this paragraph.

Any and all owners of condominium units shall have the right to rent or lease their respective units themselves, but should said owner or owners elect to have such renting or leasing effected by a real estate broker or other service organization, each owner shall be obligated to have such services performed by the Managing Agent unless the written consent of said Managing Agent is obtained for such owner to engage another party for this purpose. The Managing Agent shall charge such owner engaging its services a reasonable service charge or percentage of rental collected in the event a tenant or lessee is obtained by such Managing Agent. The Managing Agent shall furnish to the owner or owners engaging its services towel, linen and maid service as well as performing the other services customarily rendered by professional property managers.

28. In the event of any default on the part of any owner under any first mortgage which entitles the holder thereof to foreclose same, any sale under such foreclosure, including delivery of a deed to the first mortgagee in lieu of such foreclosure, shall be made free and clear of the provisions of paragraph 27, and the purchaser (or grantee under such deed in lieu of foreclosure) of such condominium unit shall be thereupon and thereafter subject to the provisions of this Declaration and the Bylaws. If the purchaser following such foreclosure sale (or grantee under deed given in lieu of such foreclosure) shall be the then holder of the first mortgage, or its nominee, the said holder or nominee may thereafter sell and convey the condominium unit free and clear of the provisions of paragraph 27, but its grantee shall thereupon and thereafter be subject to all of the provisions hereof.



The following transfers are also exempt from the provisions of paragraph 27:

- (a) The transfer by operation of law of a deceased joint tenant's interest to the surviving joint tenant(s).
- (b) The transfer of a deceased's interest to a devisee by will or his heirs at law under intestacy laws.
- (c) The transfer of all or any part of a partner's interest as a result of withdrawal, death or otherwise, to the remaining partners carrying on the partnership business and/or to a person or persons becoming partners. A transfer of all or part of a partner's or partners' interests between one or more partners and/or to persons becoming partners.
- (d) The transfer of an interest to a trust in which the beneficiary or beneficiaries are the original owners in interest or their heirs.
- (e) The purchase, sale, or lease by the Declarant.
- (f) The transfer of a corporation's interest to the persons formerly owning the stock of the corporation as the result of a dissolution. A transfer to the resulting entity following a corporate merger or consolidation; provided, however, that fifty per cent of the stock of the resulting entity is owned by the stock-holders of the corporation formerly owning the condominium unit.

Such persons, owners or grantees acquiring an interest shall be subject to all of the provisions of paragraph 27 except as is provided herein.

If an owner of a condominium unit can establish to the satisfaction of the Association Manager or Board of Managers that a proposed transfer is not a sale or lease, then such transfer shall not be subject to the provisions of paragraph 27.

29. Upon written request of any prospective transferor, purchaser, tenant or an existing or prospective mortgagee of any condominium unit, the Association Manager or Board of Managers of the Association shall forthwith, or where time is specified, at the end of such time, issue a written and acknowledged certificate in recordable form, evidencing that:
- (a) With respect to a proposed lease or sale under paragraph 27, that proper notice was given by the selling or leasing owner and that the remaining owners did not elect to exercise their option to purchase or lease;
  - (b) With respect to a deed to a first mortgagee or its nominee in lieu of foreclosure, a deed from /such first mortgagee or its nominee, pursuant



to paragraph 28, that the deeds were in fact given in lieu of foreclosure and were not subject to the provisions of paragraph 27;

- (c) With respect to any contemplated transfer which is not in fact a sale or lease that the transfer will not be subject to the provisions of paragraph 27;

Such a certificate shall be conclusive evidence of the facts contained therein.

- 30. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction or obsolescence.

Title to any condominium unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Declarant or from any owner shall constitute appointment of the attorney-in-fact herein provided. All of the owners irrevocably constitute and appoint the Association earlier referred to herein, a Colorado corporation, not for profit, their true and lawful attorney in their name, place and stead for the purposes of dealing with the property upon its destruction or obsolescence as is hereafter provided. As attorney-in-fact, the Association, by its president and secretary, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a condominium unit owner which are necessary and appropriate to exercise the powers granted by this paragraph 30. Repair and reconstruction of the improvement(s) as used in the succeeding subparagraphs means restoring the improvement(s) to substantially the same condition in which it existed prior to the damage, with each unit and the general and limited common elements having the same vertical and horizontal boundaries as before-. The proceeds of any insurance collected shall be available to the Association for use as hereinafter specified.

- (a) 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.
- (b) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than fifty per cent of all of the general common elements, 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 an assessment to be made against all of the owners and their condominium units. Such deficiency assessment shall be a common expense and made pro rata according to each owner's percentage interest in the general common elements and shall be due and payable within thirty days after written notice thereof. The Association shall have the authority to cause the repair or restoration of the improvements 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 condominium 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 condominium unit of any owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, as attorney-in-fact, in following order:

- 1) For payment of the balance of the lien of any first mortgage;
  - 2) For payment of taxes and special assessments liens in favor of any assessing entity.
  - 3) For payment of unpaid common expenses;
  - 4) For payment of junior liens and encumbrances in the order of and to the extent of their priority; and
  - 5) The balance remaining, if any, shall be paid to the condominium unit owner.
- (c) If more than fifty per cent of all of the general common elements, not including land, are destroyed or damaged, and, if the owners representing an aggregate ownership interest of seventy per cent, or more, of the general common elements, do not voluntarily, within one hundred days thereafter, make provisions for reconstruction, which plan must have the unanimous approval or consent of every first mortgagee, 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, the entire remaining premises shall be sold by the Association, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the map and the Bylaws. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each unit owner's interest (as such interests appear on the policy or policies), and such divided proceeds shall be paid into the same number of separate accounts as there are apartment units in the building as designated in paragraph 3 hereof, each such account representing one of the condominium units. Each such account shall be in the name of the Association, and shall be further identified by the number of the apartment unit 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, toward the partial or full payment of the lien of any first mortgage against the condominium unit represented by such separate account. There shall be added to each such account the apportioned



amount of the proceeds derived from the sale of the entire property. Such apportionment shall be based upon each condominium unit owner's percentage interest in the general common elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in sub-paragraph (b)(1) through (5) of this paragraph.

- (d) If the owners representing an aggregate ownership interest of seventy per cent, or more, of the general common elements adopt a plan for reconstruction, which plan has the unanimous approval of all first mortgagees, then all of the owners shall be bound by the terms and other provisions of such plan. Any assessment made in connection with such plan shall be a common expense and made pro rata according to each owner's percentage interest in the general common elements and shall be due and payable as provided by the terms of such plan, but not sooner than thirty days after written notice thereof. The Association shall have the authority to cause the repair or restoration of the improvements 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 condominium 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 condominium 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 condominium unit of the delinquent owner shall be sold by the Association. The proceeds derived from sale of such condominium 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 sub-paragraph (b) (1) through (5) of this paragraph.
- (e) The owners representing an aggregate ownership interest of eighty-five per cent, or more, of the general common elements may agree that the general common elements of the property are obsolete and that the same should be renewed or reconstructed. In such instance, then the expense thereof shall be payable by all of the owners as common expenses; provided, however, that any owner not agreeing to such renewal or reconstruction may give written notice to the Association that such unit shall be purchased by the Association for the fair market value thereof. If such owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within thirty days thereafter. If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "commencing date" from which all periods of time mentioned herein shall be measured.



Within ten days following the commencement date, each party shall nominate in writing (and give notice of such nomination to the other party), an appraiser who shall be a member of the Denver Board of Realtors. If either party fails to make such a nomination, the appraiser nominated shall, within five days after default by the other party, appoint and associate with him another appraiser (to be selected from the Denver Board of Realtors) to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, then each appraiser previously appointed shall nominate two persons (each of whom shall be a member of the Denver Board of Realtors), and from the names of the four persons so nominated one shall be drawn by lot by any judge of any court of record in Colorado, and the name so drawn shall be such umpire. The nomination from whom the umpire is to be drawn by lot shall be submitted within ten days of the failure of the two appraisers to agree, which, in any event, shall not be later than twenty days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value, or in the case of their disagreement, the decision of the umpire, shall be final and binding. The expenses and fees of such appraisers shall be borne equally "by the Association and the owner. The sale shall be consummated within fifteen days thereafter, and the Association, as attorney-in-fact, shall disburse such proceeds as is provided in sub-paragraph (b)(1) through (5) of this paragraph.

- 31.** Declarant reserves for itself, its successors and assigns, an easement in, under and over the general common elements as necessary in the future for installing, connecting, repairing and maintaining utilities, including but not restricted to sewer lines, water lines, gas lines, electric lines, and easements for access roads.
- 32.** 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 Board of Managers of the Association or the Association shall be sent by certified mail, postage prepaid, c/o the managing agent.
- 33.** If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.
- 34.** The provisions of this Declaration shall be in addition and supplemental to the Condominium Ownership Act of the State of Colorado and to all other applicable provisions of law.





EXHIBIT "A"

Legal Description HI-COUNTRY HAUS CONDOMINIUM NO. 11

A 0.43 acre tract of land in the NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  of Section 28, Twp. 1 S., Range 75 W., of the 6th P.M., described as follows:

Beginning at the Northeast corner of this tract whence the center quarter corner of Section 28 bears N. 15°33' E. a distance of 1199.50 feet; thence S. 79°37' W. a distance of 151.23 feet; thence S. 27°00' E. a distance of 94.34 feet along the Fraser River; thence S. 33°30' E. a distance of 62.90 feet along the Fraser River; thence N. 86°13' E. a distance of 120.15 feet; thence N. 17°21' W. a distance of 163.25 feet to the point of beginning.