

CONDOMINIUM DECLARATION

THE GLEN @ HORIZON DRIVE CONDOMINIUM

BOOK 2626 PAGE 14

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MONIKA TODD CLK&REC MESA COUNTY CO
REC FEE \$125.00

I

RECITAL AND CERTAIN DEFINITIONS

- 1.1 The Real Property; the Declarant. The Glen @ Horizon Drive II, LLC., hereafter referred to as "Declarant", is the owner of that certain real property located in Mesa County, Colorado (the "Real Property"), to-wit:

See Exhibit "A" and "B" attached hereto and incorporated herein, together with Tract A shown on the Map (as hereinafter defined) and described in Exhibit "C" attached hereto.

- 1.2 Intention of Declarant. Declarant intends to provide for condominium ownership of the Real Property under the Colorado Common Interest Ownership Act of the State of Colorado and to define the character, duration, rights, obligations and limitations of condominium ownership in The Glen @ Horizon Drive Condominium, and for such purpose executes this Condominium Declaration of The Glen @ Horizon Drive Condominium, hereinafter referred to as "Declaration".
- 1.3 The Project; Phased Development. Declarant has prepared a Condominium map of the surface of the ground of a portion of the Real Property, together with diagrammatic floor plans of the buildings and other improvements erected thereon, showing elevations. Each Unit, as herein defined, is numbered consecutively on such plans. The term "Project" shall collectively mean the Real Property, other real property submitted hereto pursuant to Article XVIII hereof, and all buildings and other improvements located or to be located on the Real Property. The Project shall consist of up to sixty-eight (68) single-family dwellings to be constructed in seventeen (17) buildings and shall be constructed in multiple phases or filings which shall be consecutively numbered. The first phases ("Phase I and Phase II") of the Project contain twelve (12) units. Subsequent Phases shall be numbered sequentially by roman numerals.
- 1.4 Type of Ownership. The Project will provide a means for ownership in fee simple of individual air space units and for co-ownership with others, as tenants in common, of Common Elements, as herein defined.
- 1.5 Revocation of Prior Condominium Declaration. The Declarant previously recorded a Condominium Declaration for The Glen @ Horizon Condominiums, which appears in Book 2435 at page 343 of the records of Mesa County, Colorado, covering the property which is the subject hereof. The Declarant hereby rescinds and revokes that document in its entirety and substitutes this Declaration therefor for all purposes.

II

ADDITIONAL DEFINITIONS

- 2.1 Association. "Association" means The Glen @ Horizon Drive Condominium Association, a Colorado nonprofit corporation, its successors and assigns.
- 2.2 Building. "Building" means the buildings constructed on the Real Property. Buildings shall be numbered.
- 2.3 Common Elements. "Common Elements" means all of the Project except all Units.

- 2.4 Condominium Map. "Condominium Map" means a plat or survey, or any supplement thereto, of the Real Property or a portion thereof, showing a survey and legal description thereof, prepared and certified by a licensed Colorado land surveyor, the location of the Building(s) with respect to the boundaries of the Real Property, together with diagrammatic floor plans of the Building showing the boundaries of each Unit, together with Unit numbers identifying the Units, including horizontal and vertical locations and dimensions of the Building, together with such other information as may be included thereon in the discretion of the Declarant or as shall be required by law. Supplemental Condominium Maps shall be prepared and filed for record as each additional phase or filing is substantially completed.
- 2.5 Condominium Unit. "Condominium Unit" means a Unit together with an equal undivided interest in the Common Elements.
- 2.6 General Common Elements. "General Common Elements" means all Common Elements except all Limited Common Elements.
- 2.7 Limited common Elements. "Limited Common Elements" means those Common Elements designated herein for exclusive use by Owners of particular Condominium Units.
- 2.8 Mortgage. "Mortgage" means any mortgage, deed of trust, or other security instrument by which a Condominium Unit or any part thereof is encumbered.
- 2.9 Mortgagee. "Mortgagee" means any person named as the mortgagee or beneficiary under any mortgage under which the interest of any Owner is encumbered.
- 2.10 Owner. "Owner" means any person or entity at any time owning a Condominium Unit; the "Owner" shall not refer to any Mortgagee, as herein defined, unless such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- 2.11 Unit. "Unit" means an individual air space Unit consisting of enclosed rooms occupying all or part of a floor in the Building in which the Unit is situated bounded by the interior surfaces of the perimeter walls, floors, ceilings, windows and doors thereof as shown and numbered on the Condominium Map to be filed for record, together with all fixtures and improvements therein contained, whether built or not. Notwithstanding the foregoing, the following are not part of a Unit: bearing walls, floors and roofs (except for the interior surface thereof, of a perimeter wall, floor or ceiling), foundations, shafts, and other services used by more than one Unit, pipes, vents, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except the outlets thereof when located within the Unit. The interior surfaces of a perimeter window or door means the points at which such surfaces are located when such windows or doors are closed; and, the physical perimeter windows and doors themselves are part of the Common Elements, as herein defined.

III STATEMENT OF INTENTION AND PURPOSE

Declarant hereby declares that the Project and every part thereof is held and shall be held, conveyed, devised, encumbered, used, occupied and improved and otherwise affected in any manner subject to the provisions of this Declaration, each and all of which provisions are hereby declared to be in furtherance of the general plan and scheme of condominium ownership referred to in Article I and are further declared to be for the benefit of each Owner. All provisions hereof shall be deemed to run with the land as covenants running with the land or as equitable servitudes, as the case may be, and shall constitute benefits and burdens to the Declarant and its assigns and to all persons hereafter acquiring or owning any interest in the Project, however such interest may be obtained.

**IV
PREPARATION AND FILING OF THE CONDOMINIUM MAP**

- 4.1 Preparation. The Condominium Map or any supplement thereto, shall be completed only after the portion of the Project depicted thereon, has been substantially completed so that all points and features to be located thereon will reflect the true location of each Unit and of the Common Elements, as built, shown thereon.
- 4.2 Filing. The Condominium Map and all supplements thereto shall be filed for record in the real estate records of the county Clerk and Recorder of Mesa County, Colorado.

**V
NATURE AND INCIDENTS OF CONDOMINIUM OWNERSHIP**

- 5.1 Estates of an Owner. The Project is divided into Condominium Units, each consisting of a separate fee simple interest in a Unit and an equal undivided fee simple interest in the Common Elements with all other Units. Such undivided interests in the Common Elements are hereby declared to be appurtenant to the respective Units. The undivided interest of each Unit shall be measured by the number of completed units in the Project from time to time submitted under this declaration or by supplement hereto.
- 5.2 Right to Combine Condominium Units. Condominium Units shall not be physically combined without first obtaining written permission of the Association, hereafter defined. Such combination shall not affect the designation nor prevent separate ownership of such Units in the future. Any walls or other structural separation between combined Units, or any space which would be occupied by such structural separation but for the combination of Units shall remain Common Elements. Alterations to walls or other structural separations shall not alter the bearing capabilities of such structures and shall not adversely affect other Owners. The combination of Units shall not be effective for any purpose until a supplemental Condominium Map showing such combination shall be filed and recorded in the Office of the Clerk and Recorder of Mesa County, Colorado. All costs of the preparation and filing of supplemental Condominium Maps shall be paid by the Owner combining the Units.
- 5.3 Limited Common Elements. A portion of the Common Elements is set aside and reserved for the exclusive use, management, control, operation, maintenance, repair and improvement of and by the individual Owners, as shall be designated on the Condominium Map for the use by a Unit or Units.
- 5.4 Title. Title to a Condominium Unit may be held or owned by an entity and in any manner in which title to any other real property may be held or owned in the State of Colorado, including, but without limitation, joint tenancy or tenancy in common.
- 5.5 Inseparability. No part of a Condominium Unit or of the legal rights comprising ownership of a Condominium Unit may be separated from any other part thereof during the period of condominium ownership prescribed herein, so that each Unit and the undivided interest in the Common Elements appurtenant to such Unit shall always be conveyed, devised, encumbered, and otherwise affected only as a complete Condominium Unit. Every gift, devise, bequest, transfer, encumbrance, conveyance or other disposition of a Condominium Unit or any part thereof shall be presumed to be a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Condominium Unit together with all appurtenant rights created by law or by this Declaration.
- 5.6 Partition not Permitted. The Common Elements shall be owned in common by all the Owners of Condominium Units, and no Owner may bring any action for partition thereof.

- 5.7 Owner's Rights to Common Elements. Subject to the limitations contained in this Declaration, each Owner shall have the nonexclusive right to use and enjoy the Common Elements.
- 5.8 Owner's Rights with Respect to Interiors. Each Owner shall have the exclusive right to paint, repair, tile, carpet, drape, wax, paper or otherwise finish or refinish and decorate the interior surface of the walls, ceilings, floors, windows and doors forming the boundaries of his Unit.
- 5.9 Right to Lease Unit. Each Owner shall have the exclusive, irrevocable, perpetual right to lease the Unit to any party (tenant) without approval of the Association. However, such tenant shall be bound by all Rules and Regulations of The Glen @ Horizon Drive Condominium Association, as if tenant were the owner.

Further, during the period of Declarant Control, Declarant may at its sole discretion use any Unit(s) under its control or leased by it as a model Unit for the purposes of promoting the sale of Units in The Glen @ Horizon Drive Condominiums, and shall be authorized to place, use, install signage, and maintain sales and construction offices in the Units and/or on the Common Elements of The Glen @ Horizon Drive Condominium Association.

- 5.10 Easement for Encroachments. If any part of the Common Elements encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Elements, or upon an adjoining Unit or Units, an easement for such encroachment and/or the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances either on the Common Elements or the Units. If any part of the utilities such as gas or electric metering devices shall encroach upon the General or Limited Common Elements or Units, an easement for such encroachment and for the maintenance of the same shall and does exist. Encroachments referred to herein include, but are not limited to, encroachments caused by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.
- 5.11 Easements of Access for Repair, Maintenance and Emergencies. Some of the Common Elements are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of other Units shall have the irrevocable right, to be exercised by the Association, as their agent, to have access to each Unit and to all Common Elements from time to time during such reasonable hours as may be necessary for the maintenance, repair, emergency, repair or replacement of any of the Common Elements or as a result of the Association or of Owners shall be an expense of the Association; provided, however, that if such damage is the result of negligence of the Owner of a Unit, then such Owner shall be financially responsible for all of such damage. Such damage shall be repaired and the property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Association by assessment pursuant to Article X.
- 5.12 Owner's Right to Ingress and Egress and Support. Each Owner shall have the right to ingress and egress over, upon and across the Common Elements necessary for normal access to such Owner's Unit and shall have the right to the horizontal, subjacent and lateral support of such Owner's Unit, and such rights shall be appurtenant to and pass with the title to each Condominium Unit.
- 5.13 Association's Right to Use of Common Elements. The Association shall have a nonexclusive easement to make such use of the Common Elements as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration. The Association shall have the use of those areas marked on the Condominium Map for Association use.

- 5.14 Easements Deemed Created. All Conveyances of Condominium Units hereafter made, whether by the Declarant, or otherwise, shall be construed to grant and reserve such reciprocal easements as shall give effect to Section 5.9 through 5.13, inclusive, above, even though no specific reference to such easements or to those sections appears in any such conveyance.
- 5.15 Ad Valorem Taxation. As soon as possible after the Condominium Map or any supplement thereto, if such supplemental Condominium Map depicts Units, shall have been filed for record in Mesa County, Colorado, Declarant shall deliver a written notice to the Assessor of Mesa County, Colorado, as provided by law, setting forth the descriptions of the Condominium Units so that each Condominium Unit shall be assessed separately thereafter for all taxes, assessments and other charges of the State of Colorado or of any political subdivision or of any special improvement district or of any other taxing or assessing authority. No forfeiture or sale of any Condominium Unit for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Condominium Unit.
- 5.16 Basement Area Underlying Building 17. The basement area underlying Building 17 shall be a Limited Common Element for the exclusive use of the Owner of Units in said Building 17. By the determination of a majority of the said Owners that area may be partitioned into four (4) separate spaces, one (1) for the use of each of said Owners.

**VI
CONVEYANCE AND DESCRIPTION OF A CONDOMINIUM UNIT**

Every purchase contract for the sale of a Condominium Unit written prior to the filing for record of the Condominium Map shall be effective and binding on the parties thereto if it describes a Condominium Unit by its identifying unit number, and states that such Condominium Unit will have an undivided interest in the Common Elements appurtenant thereto, as such Condominium Unit and appurtenant Common Elements shall be designated on the Condominium Map to be filed for record in Mesa County, Colorado, and such description shall conclusively be presumed to relate to the corresponding Condominium Unit reflected thereon.

After the Condominium Map shall have been filed for record in Mesa County, Colorado, every contract for the sale of a Condominium Unit and every other instrument affecting title to a Condominium Unit may describe that Condominium Unit by the number shown on the Condominium Map with the appropriate reference to the Condominium Map and to this Declaration, as each shall appear on the records of the County Clerk and Recorder of Mesa County, Colorado in the following fashion:

Condominium Unit _____, Building _____, Phase _____, as shown on the Condominium Map for The Glen @ Horizon Drive Condominium, appearing in the records of the County Clerk and Recorder of Mesa County, Colorado, August 27, 1999, as Reception No. 1917735, and as defined and described in that Condominium Declaration for The Glen @ Horizon Drive Condominium, appearing in such records in Book 2 at Page 184 - 191.

Such description will be construed to describe the Unit, together with the appurtenant undivided interest in the Common Elements, and to incorporate all the rights incident to ownership of a Condominium Unit and all the limitation on such ownership as described in this Declaration.

VII MECHANIC'S LIEN RIGHTS

No labor performed or materials furnished for use in connection with any Unit with the consent or at the request of an Owner or an Owner's agent or subcontractor shall create any rights to file a statement of mechanics' lien against the Unit of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Unit of the Owner for whom such labor shall have been performed and such materials shall have been furnished. 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 Condominium Unit, or any part thereof, of any other Owner for labor performed or for materials furnished in work on the first Owner's Unit. At the written request of any Owner, the Association shall enforce such indemnity by collecting from the Owner of the Unit on which the labor was performed and materials furnished the amount necessary to discharge any such lien, including all costs incidental thereto, and obtaining discharge of the lien. Such collection shall be made by a special assessment pursuant to Article X.

VIII THE ASSOCIATION

- 8.1 **Membership.** Every Owner shall be entitled and required to be a member of the Association, a Colorado non-profit corporation, which Association shall be organized and made effective by Declarant. If title to the Condominium Unit is held by more than one person, the membership related to that Condominium Unit shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which the title to the Condominium Unit is held. An Owner shall be entitled to one membership for each Condominium Unit owned by that Owner. No person or entity other than an Owner may be a member of the Association and the memberships in the Association may not be transferred except in connection with the transfer of a Condominium Unit; provided, however, that the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Condominium Unit.
- 8.2 **Voting Rights.** The Association shall have one class of membership. Each membership shall be entitled to one vote. Because the Project is a phased development, the Declarant shall have the right to one (1) vote for each Condominium Unit owned by it whether constructed or proposed.
- 8.3 **Executive Board.** Declarant shall elect the members of the Executive Board until the latter occurrence of the following: (a) sixty (60) days after construction and conveyance of seventy-five (75%) percent of the Units that may be created to Unit owners other than a Declarant, (b) two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business, or (c) two (2) years after any right to add new Units was last exercised. Provided further that not later than sixty (60) days after conveyance of twenty-five (25%) percent of the Units that may be created to Unit Owners other than a Declarant, at least one (1) member and not less than twenty-five (25%) percent of the members of the Executive Board must be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty (50%) percent of the Units that may be created to unit owners other than a Declarant, not less than thirty three and one-third (33 1/3%) percent of the members of the Executive Board must be elected by Unit Owners other than the Declarant. Declarant's control of the Association shall terminate no later than sixty (60) days following conveyance of seventy-five (75%) percent of the Units in the Project to Unit Owners other than the Declarant, two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business, or two (2) years after any right to a new Unit was exercised.
- 8.4 **Transfer; Delegation.** Except as otherwise expressly stated herein, any of the rights, interests, duties, functions and obligations of the Association set forth herein or reserved

herein may be transferred, assigned, or delegated to any other person or entity; provided, however, that no such transfer, assignment or delegation shall relieve the Association of any of the obligations set forth herein. Any such transfer, assignment or delegation shall not revoke or change any of the rights or obligations of any Owners as set forth herein. Such delegations may be to a manager of the Project, provided that any such delegation to a manager of the Project shall be revocable by the Association.

- 8.5 Amplification. The provisions of this Article VIII are to be amplified by the Articles of Incorporation and Bylaws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth herein.

**IX
CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

- 9.1 The Common Elements. The Association shall be responsible for the maintenance and repair of the General Common Elements and the Limited Common Elements, the Ditch Easement, the Permit and exterior of Units in the event the Owners of such Units, and appurtenant Limited Common Elements, shall fail to maintain or repair the same as provided in Section 11.3 hereof. The cost of maintenance and repair shall be borne as provided in Article X.

The Association shall have the right to grant easements for utility purposes over, upon, under or through any portion of the Common Elements, and is hereby irrevocably appointed as attorney in fact for each Owner for such purpose.

- 9.2 Miscellaneous Services. The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom it contracts. The Association may arrange to furnish snow removal or other common services to each Unit. The cost of such services shall be borne as provided in Article X.

- 9.3 Personal Property for Common Use. The Association may acquire and hold for the use and benefit of Owners and invitees tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners, equally. Such interests shall not be transferable except with the transfer of a Condominium Unit. A transfer of a Condominium Unit shall transfer the ownership of the transferor's beneficial interest in such property without any reference thereto. Each Owner of a Condominium Unit and his invitees may use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other Owners of Condominium Units. The transfer of title to a Condominium Unit under foreclosure shall entitle the purchaser to the interest in such personal property associated with the foreclosed Condominium Unit.

- 9.4 Rules and Regulations. The Association may make and Owners shall comply with rules and regulations governing the use of the Condominium Units, Common Elements, Tract A/the Ditch Easement and personal property for common use, which rules and regulations shall be consistent with the rights and duties established in this Declaration.

- 9.5 Rights. The Association may suspend any Owner's voting rights in the Association during any period or periods during which such Owner fails to comply with any obligation of such Owner under this Declaration. The Association may also take judicial action against any Owner to enforce compliance with such obligations or to obtain damages for non-compliance, all to the extent permitted by law. The Association may exercise any right or

privilege given to it expressly by this Declaration or by law, and every other right or privilege.

- 9.6 Easement for Independent Ranchmen's Ditch. Declarant has, at its expense, relocated the Independent Ranchmen's Ditch, a Federally regulated waterway, authorized by the United States Army Corps of Engineers under Permit No. 199875213 (the "Permit") and that certain Amended and Restated Easement Agreement between the Declarant and Grand Valley Irrigation Company dated February 10, 1999, and recorded in Book 2555 at Page 125, of the records of Mesa County, Colorado as (the "Ditch easement"). The area burdened by the Ditch Easement shall be conveyed by Declarant to the Association, and is shown and described in the Map as "Tract A". The same shall be property of the Association and not a General Common Element. Incidental thereto, Declarant may amend the Final Subdivision Plat for The Glen @ Horizon Drive, filed for record in Plat Book 16 at Pages 157 and 158, of the records of Mesa County, Colorado, to reflect such relocation thereon. The Association shall be responsible for all of the obligations of the Declarant pursuant to the Ditch Easement and compliance with the ongoing obligations of the Permit, the cost thereof shall be a shared cost by all of the Units; PROVIDED, HOWEVER, Association costs relating to the Ditch Easement and for the Association's landscaping and improvements thereon shall be based on the anticipation that there will be sixty-eight (68) Units in the Project. Owners of completed Units will only be responsible for a fraction of such assessments, the fraction being the number of completed Units from time to time over sixty-eight (68) and the Declarant shall be responsible for the remainder of such costs (including those relating to completed unsold Units which it owns).

X ASSESSMENTS

- 10.1 Agreement to Pay Assessments. Declarant, for each completed constructed Condominium Unit owned by it within the Project, hereby covenants, and each Owner of any Condominium Unit by the acceptance of a deed therefor, whether or not it be so expressed in the deed, shall be deemed to covenant and agree with each other and with the Association to pay to the Association monthly assessments made by the Association for the purposes provided in this Declaration. Such assessments shall be fixed, established and collected from time to time in the manner provided in this Article. The assessments on each Unit shall be equal.
- 10.2 Amount of Regular Assessments. The regular assessments against all Condominium Units shall be based upon advance estimates by the Association to provide for the payment of all estimated expenses arising out of or connected with the performance of the Association purposes. Said estimated expenses may include management fees and expenses; insurance premiums; landscaping and care of General Common Element grounds; snow removal; General Common Element repairs; replacements and maintenance; wages for Association employees; water, sewer and trash removal; legal and accounting fees; and deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration.
- 10.3 Apportionment of Expenses. Any expenses assessed pursuant hereto against any Owner shall be assessed to all Owners of completed constructed Units, equally. Any assessments assessed pursuant hereto against less than all of the Owners shall be assessed to such Owners, equally.
- 10.4 Notice of Regular Assessments and Time for Payment. Assessments may be made on a calendar month, quarter or year basis as the Association may select. The Association shall give written notice to each Owner as to the amount of the assessment with respect to his Condominium Unit within thirty (30) days of the determination and levy of such

assessment. Such assessment shall be due and payable on or before ten (10) days following receipt of the notice of assessment or, in the event the assessment shall be paid monthly, on or before the 10th day of each month. Each assessment shall bear interest at the rate of eighteen (18%) percent per annum from the date it becomes due and payable if not paid within ten (10) days after such date. Failure of the Association to give timely notice of any assessment as provided herein shall not affect the liability of the Owner of any Condominium Unit for such assessment, but the date when payment shall become due in such a case shall be ten (10) days after such notice shall have been given.

10.5 Special Assessments. In addition to the regular assessments authorized by this Article, the Association may levy a special assessment, payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections hereof which shall make specific reference to this Article. Any amounts assessed pursuant hereto against all Owners shall be assessed to all Owners, equally. Any amounts assessed pursuant hereto against less than all of the Owners shall be assessed to such Owners, equally. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given. A special assessment shall bear interest at the rate of 18 percent (18%) per annum from the date it becomes due and payable if not paid within thirty days after such date.

10.6 Lien for Assessments. All sums assessed to any Condominium Unit pursuant to this Article, together with interest thereon as provided herein, shall be secured by a lien on such Condominium Unit in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Condominium Unit, except only for: valid tax and special assessment liens on the Condominium Unit in favor of any governmental assessing authority. All other liens or acquiring liens on any Condominium Unit after the Declaration shall have been recorded in said records shall be deemed to consent that such liens shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

To evidence a lien for sums assessed pursuant to this Article, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Condominium Unit and a description of the Condominium Unit. Such a notice shall be signed by the Association and may be recorded in the office of the county Clerk and Recorder of Mesa County, Colorado. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Colorado. In any such foreclosure, the Owners shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the notice of lien and all reasonable attorney's fees. All such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Condominium Unit which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale and other legal sale and to acquire, hold, convey, encumber and otherwise deal with the same as the Owner thereof.

A release of notice of lien shall be executed by the Association and recorded in the Mesa County, Colorado, real estate records upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

Any encumbrancer holding a lien on a Condominium Unit may pay, but shall not be required to pay, any amounts secured by the lien created by this Section, and upon such

payment, such encumbrancer shall be subrogated to all rights of the Association with respect to such lien, including priority.

The Association may report to any encumbrancer of a Condominium Unit any unpaid assessments remaining unpaid for longer than ninety (90) days after the same shall have become due; provided, however, that such encumbrancer first shall have furnished to the Association written notice of such encumbrance.

- 10.7 Personal Obligation of Owner. The amount of any assessment against any Condominium Unit shall be the personal obligation of the Owner thereof to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish such personal obligation by the waiver of the use and enjoyment of any of the Common Elements or by abandonment of such Owner's Condominium Unit.
- 10.8 Statement of Account. Upon written request of any Owner or any Mortgagee, prospective Mortgagee or prospective purchaser of a Condominium Unit, the Association shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Condominium Unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for advanced payments or prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums, which statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20) days, all unpaid assessments which become due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statements. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligation of the purchaser shall be released automatically if the statement is not furnished within the twenty (20) day period provided herein and thereafter an additional written request is made by such purchaser and is not complied with within ten (10) days, and the purchaser subsequently acquired the Condominium Unit.

**XI
USE OF CONDOMINIUM UNITS**

- 11.1 Use. Each Unit shall be used for residential purposes consistent with the zoning of the Real Property.
- 11.2 Prohibition of Damage and Certain Activities. Nothing shall be done or kept in any Unit or in the Common Elements or any part thereof which would result in a violation of the restrictive covenants or which would result in the cancellation of the insurance for the Project or any part thereof, or which would result in an increase in the rate of the insurance on the Project or any part thereof over what the Association, but for such activity, would pay, without the prior written consent of the Association. Nothing shall be done or kept in any Unit or in the Common Elements or any part thereof which would be in violation of any statute, rule, or ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of the Common Elements or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees. No noxious, destructive or offensive activity shall be carried on in any Unit or in the Common Elements or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project.
 - a. Vehicles. No vehicles of any kind shall be permitted to park on Glen Court Road. Further, recreational vehicles and/or trailers of any kind shall not be parked,

located or stored on the Common Elements for cumulative periods longer than eight (8) hours in any thirty-one (31) day period.

- b. Construction. During the term of the Declarant's development and construction of the entire Project and appurtenant Common Elements, the Owners and Association hereby irrevocably grant Declarant, without reservation of any kind; the free access, use and enjoyment of the Common elements, for the purpose of developing the Project. Owner and Association further acknowledge and accept that construction shall be occurring on portions of the Real Property during development of the Project, which construction may generate noise or nuisance commonly associated with construction activities and property development.
- 11.3 Maintenance of Interiors and Limited Common Elements. Each Owner shall keep the interior and exterior of such Owner's Unit, including without limitation, interior and exterior walls, windows, glass, ceilings, floors, permanent fixtures, roof and shingles, patios and appurtenances thereto, and Limited Common Elements appurtenant to such Unit, in a clean, sanitary and attractive condition, and in a good state of repair free from the accumulation of trash or debris and deterioration.
- 11.4 Antennas and Satellite Dishes. No exterior antennas shall be permitted to be located on any Common Element. Satellite dishes larger than 24" are not permitted on any Common Element. However, notwithstanding the above, satellite dishes of 24" diameter or less, may be installed on Common Element locations designated by the Association or Declarant.
- 11.5 Structural Alterations. No structural alterations to any Unit shall be made, and no plumbing, electrical or similar work within the Common Elements shall be done by any Owner without the prior written consent of the Association.
- 11.6 Household Pets. The raising, breeding or keeping of any animal, fowl or reptile for commercial purposes is prohibited. Two (2) household pets, which shall not exceed sixty-five (65) pounds each, are allowed in each Unit subject to rules and regulations as adopted by the Association from time to time. Pets shall be leashed at all times when on the Common Elements. A Unit Owner shall immediately dispose of all refuse created by such Owner's pet(s).

XII INSURANCE

- 12.1 Types of Insurance. The Association shall obtain and keep in full force and effect at all time the following insurance coverage provided by companies duly authorized to do business in Colorado. The provisions of this Article shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.
- a. Property Insurance. The Association shall obtain insurance on the Project in such amounts as shall provide for full replacement thereof in the event of damage or destruction resulting from the perils against which such insurance is obtained, all in the manner in which a corporation owning similar multiple family residential buildings in the vicinity of the Project would, in the exercise of prudent business judgment, obtain such insurance. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection. The Association may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as in the Association's opinion are consistent with good business practice.

- b. Liability Insurance. The Association shall purchase broad-form Comprehensive General Liability coverage in such amounts and in such forms as it deems advisable. Coverage shall be written on an occurrence basis and may include, without limitation, liability for personal injury, water damage, contractual obligations, operations of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other use of the Project.
 - c. Workmen's Compensation and Employer's Liability Insurance. The Association may purchase Workmen's Compensation and Employer's Liability Insurance and all other similar insurance in respect of employees of the Association in the amounts and in the forms now or hereafter required by law as it deems necessary.
 - d. Other Insurance. 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 any personal property of the Association located thereon.
- 12.2 Owner's Responsibility. Insurance coverage on the furnishings and other items of personal property belonging to an Owner and casualty and public liability insurance coverage within each individual Unit and for activities of the Owner, not acting for the Association, with respect to the Common Elements shall be the responsibility of the respective Owners.
- 12.3 Form. The property insurance obtained by the Association shall be carried in a form or forms naming the Association in the insurance, as trustee for the Owners. Such policy or policies also shall provide that it or they cannot be canceled by either the insured or the insurance company until after ten (10) days prior written notice is first given to each Owner, and to each Mortgagee. On request, the Association shall furnish each Owner a true copy of such policy or certificate identifying the interest of the Owner. All policies of insurance shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of breach of warranty, act, omission, negligence or non-compliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest, or who permits or fails to prevent the happening of an event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy. All policies of insurance shall provide further that the insurance under any such policy as to the interest 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.

Liability insurance shall name the Association as the insured, as Trustee for the Owners and for Declarant, whether or not it is an Owner, and shall protect each Owner and Declarant against liability for acts of the Association in connection with the ownership, operation, maintenance or other use of the Project.

- 12.4 Insurance Proceeds. The Association shall receive the proceeds of any property insurance payments received under policies obtained by it and maintained by it pursuant to this Article. The Association shall apportion the proceeds to the portions of the Project which have been damaged and shall determine the amount of the proceeds attributable to damage to the Common elements. The extent that reconstruction is required herein, the proceeds shall be used for such purpose. to the extent that reconstruction is not required herein and there is a determination that the Project shall not be rebuilt, the proceeds shall be distributed to each of the Owners thereof in accordance with their respective interest therein, with joint payments being made to the Owner and Mortgagees where the Association has written notice of the existence of a Mortgage. Each Owner, Declarant, and each Mortgagee shall be bound by the apportionments of damage and of the insurance proceeds made by the Association pursuant hereto.

**XIII
CASUALTY DAMAGE OR DESTRUCTION**

- 13.1 Affects Title. Title to each Condominium Unit is hereby made subject to the terms and conditions hereof, which bind the Declarant and all subsequent Owners, whether or not it be so expressed in the deed by which any Owner acquired such Owner's Condominium Unit.
- 13.2 Association as Agent. The Declarant and all of the Owners irrevocably constitute and appoint the Association their true and lawful agent in their name, place and stead for the purpose of dealing with the Project upon its damage or destruction as hereinafter provided. Acceptance by any grantee of deed from any Owner shall constitute appointment of the attorney in fact herein provided.
- 13.3 General Authority of Association. As attorney in fact, the Association 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 a Condominium Unit Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in the succeeding subparagraphs means restoring the Project to substantially the same condition in which it existed prior to damage, with each Unit and the common elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance of the Association collected shall be available to the Association for the purpose of repair or reconstruction unless the Owners representing an aggregate ownership interest to seventy-five (75 %) percent or more of the Units, and all first and second Mortgagees agree not to rebuild.
- In the event any such Mortgagee should not agree not to rebuild, the Association shall have the option to purchase such Mortgage by payment in full of the amount secured thereby if the Owners representing an aggregate ownership interest of seventy-five (75 %) percent or more of the Units, excluding Units owned by the Association, are in agreement not to rebuild. The Association shall obtain the funds for such purpose by special assessments under Article X of this Declaration.
- 13.4 Estimate of Costs. As soon as practicable after an event causing damage to, or destruction of, any part of the Project, the Association shall obtain reliable and complete estimates of the costs of repair or reconstruction of that part of the Project damaged or destroyed.
- 13.5 Repair or Reconstruction. As soon as practicable after receiving these estimates, the Association shall diligently pursue to completion the repair or reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair or reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith. Such repair or reconstruction shall be substantially in accordance with the original plans or may be in accordance with any other plans and specifications the Association may approve. The location of the Building(s) shall be substantially the same as prior to the damage or destruction.
- 13.6 Funds for Reconstruction. If the proceeds of any insurance collected are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Association, pursuant to Article X hereof, may levy in advance a special assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such special assessment shall be allocated and collected as provided in that Article. Further, levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.
- 13.7 Disbursement of Funds for Repair or Reconstruction. The insurance proceeds held by the Association and the amounts received from the assessments provided for in Section 13.6 constitute a fund for the payment of costs or repair and reconstruction after casualty. It

shall be deemed that the first money disbursed in payment for costs of repair or reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair or reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made, or would have made had there been an assessment, pursuant to Section 13.6 of this Declaration.

- 13.8 Decision Not to Rebuild. If the Owners representing an aggregate ownership interest of seventy-five (75%) percent or more of the Units, excluding Units owned by the Association, and all holders of first and second mortgages on Condominium Units agree not to rebuild, the Project shall be sold and the proceeds distributed in the same manner herein provided in the event of sale of obsolete Units, as set forth in Section 14.3.

XIV OBSOLESCENCE

- 14.1 Adoption of a Plan. The Owners may adopt a written plan for the renewal and reconstruction of the Project, which plan shall have the unanimous approval of all first and second Mortgagees of record at the time of the adoption of such plan. Such plan shall be recorded in the Mesa County, Colorado real estate records.
- 14.2 Payment for Renewal and Reconstruction. The expense of renewal or reconstruction shall be payable by all of the Owners as special assessments against their respective Condominium Units. These special assessments shall be levied in advance pursuant to Article X hereof and shall be allocated and collected as provided in that Article. Further levies may be made in like manner if the amounts collected prove insufficient to complete the renewal and reconstruction, the excess shall be returned to the Owners by a distribution to each Owner in an amount proportionate to the respective amount collected from each such Owner.
- 14.3 Sale of Obsolete Units. All Owners may agree that the Condominium Units are obsolete and that the Project should be sold. Such an agreement must have the Unanimous approval of every first and second Mortgagee of record at the time such agreement is made. 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, the 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, the Condominium Map and the Articles of Incorporation and Bylaws of the Association, or any amendments or supplements thereto. The sale proceeds shall be apportioned among the Owners, equally, and such proceeds shall be paid into separate accounts, each such account representing one Condominium Unit. Each such account shall remain in the name of the Association, and shall be further identified by the Condominium Unit designation and the name of the Owner. From each separate account, the Association, as attorney in fact, shall use and disburse the total amount of such accounts without contribution from one account to the other, first to lienors in the order of the priority of their liens and the balance remaining to each respective Owner.

In the event any Mortgagee should not agree to the sale of the Project, the Association shall have the option to purchase the Mortgage of such Mortgagee by payment in full of the amount secured thereby if all Owners are in agreement to sell. The Association shall obtain funds for such purpose by special assessments under Article X of this Declaration.

XV CONDEMNATION

- 15.1 Consequences of 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 shall apply.

- 15.2 Proceeds. All compensation, damages, or other proceeds therefrom the sum of which is hereinafter called "Condemnation Award" shall be payable to the Association.
- 15.3 Complete Taking. In the event that the entire Project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership pursuant thereto shall terminate. The Condemnation Award shall be apportioned among the Owners equally provided that if a standard different from the value of the Project as a whole is employed to measure 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 relevant and applicable.

On the basis of the principle set forth in the last preceding paragraph of this Section, the Association shall as soon as practicable thereafter to the parties in the shares so determined make distribution of the Condemnation Award. Such distribution to be made by checks payable jointly to the respective Owners and their respective Mortgagees.

- 15.4 Partial Taking. In the event that less than the entire project is taken or condemned, or 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: (a) the total amount allocated to taking of or injury to the Common Elements shall be apportioned among all Owners, equally, (b) the total amount allocated to severance damages shall be apportioned to those Condominium Units which were not taken or condemned, (c) the respective amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner has made within such Owner's own Unit shall be apportioned to the particular Unit involved, and (d) the total amount allocated to consequential damages and any other takings of injuries shall be apportioned as the Association determines to be equitable in the circumstances. If an allocation of the Condemnation Award is already established in negotiation, judicial decrees, 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 made by checks payable jointly to the respective Owners and their respective Mortgagees.
- 15.5 Reorganization. In the event a partial taking results in the taking of a complete Unit, the Owner thereof automatically shall cease to be a member of the Association. Thereafter, the Association shall reallocate the ownership interest in the Common Elements and the vote determined in accordance with the Declaration according to the same principle as employed in this Declaration at its inception and shall submit such reallocation to the Owners of remaining Units for amendment of this Declaration as provided in Article XIX hereof.
- 15.6 Reconstruction and Repair. Any reconstruction and repair necessitated by the condemnation shall be governed by the procedures specified in Article XIII hereof.

XVI REVOCATION OR AMENDMENT TO DECLARATION

This Declaration and the Condominium Map may be revoked, or any of the provisions herein may be amended, only upon the Owners representing an aggregate ownership interest of sixty (60%) percent or more of the Condominium Units, and all of the holders of first and second Mortgages on Condominium Units consenting and agreeing to such revocation or amendment by instruments duly recorded.

**XVII
PERIOD OF CONDOMINIUM OWNERSHIP**

The Condominium ownership created by this Declaration and the Condominium Map and any supplemental Condominium Map shall continue until this Declaration and any amendments thereto are revoked in the manner provided in Article XVI (Obsolescence), XV (Condemnation) or this Article.

**XVIII
DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS**

- 18.1 Right to Submit Additional Units. The Declarant has by the Declaration created twelve (12) Units on the 1.188 acres, more or less, described in **Exhibits "A" and "B"**. Declarant owns the 5.352 acres of real property described in the remainder of **Exhibit "D"** which lies adjacent to the real property submitted hereto which Declarant presently intends to submit this Declaration as it constructs additional Phases of the Project. However, although the Declarant has the right to submit all or any portion of the real property described in the remainder of **Exhibit "D"** under this Declaration, no assurances are given in regard to whether all or any portion of the real property described in the remainder of **Exhibit "D"** will be submitted under this Declaration. Each Phase shall be numbered sequentially by roman numerals. As Phases are added the interest of the Units and Unit Owners in the Common Elements of the Project shall be in direct proportion to the total number of Units submitted. The Common Elements created by this Declaration shall be augmented by Common Elements submitted under subsequent Phases. Subsequent Phases shall be submitted under this Declaration by the recording of a Supplemental Declaration recorded in the real property records of Mesa County, Colorado which expresses the number of additional Units submitted with a good and sufficient legal description of the real property submitted thereunder. A supplemental Condominium Map shall be filed of record contemporaneously with the Supplemental Declaration depicting the real property submitted by the Supplemental Declaration and the location of the Units thereon. The foregoing notwithstanding, the Declarant shall have no obligation to submit the property described in the remainder of **Exhibit "D"**, or any part thereof, to this Declaration.
- 18.2 Sequence of Submittals; Time Limitation. The right of the Declarant to submit additional real property and Units to this Declaration shall not require the same to be submitted in any sequence. The submission of additional Units to the Project must occur, if at all, within ten (10) years of the date of this Declaration. No minimum limitation is made in terms of the number of Units which may be submitted hereunder by any subsequent Phase of the Project. The maximum number of Units in the Project shall be sixty-eight (68) Units.
- 18.3 Reservation for Access and Utilities. The Declarant reserves a right-of-way for access over, along and across all streets and roadways within the Project, as from time to time constituted, for unobstructed access to any portion of the real property described in **Exhibit "D"**, and the right to access to and from, and to connect to utility systems in the Common Elements in order to provide utility service all of the real property described in this Declaration, which easements shall be deemed to run with all of the land described herein.
- 18.4 Reservation for Completion of Project and Maintenance of Declarant Functions. Declarant reserves:
- a. The right to complete all improvements shown on the Subdivision Plat, Condominium Map (including supplements) for The Glen @ Horizon Drive;

- b. The right to maintain sales offices, management offices, signs advertising The Glen @ Horizon Drive and model Unit until all Units in the Project are sold and the Project is fully developed.

**XIX
MISCELLANEOUS**

- 19.1 Compliance with Provisions of Declaration and Articles of Incorporation and Bylaws of the Association. Each Owner shall comply with the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, and the decisions and resolutions of the Association adopted pursuant thereto 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, damages or injunctive relief or both, costs and expenses of such proceeding and all reasonable attorney's fees. Such action shall be maintainable by the Association on behalf of the Owners.
- 19.2 Registration of Mailing Address; Notices. Each Owner shall register his mailing address with the Association and all notices, requests or demands intended to be served upon any Owner, except for budget statements, notices of meeting and other routine notices, shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. Unless otherwise provided herein, budget statements, notices of meetings and other routine notices may be sent by regular mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, requests or demands intended to be served upon the Association shall be given by registered or certified mail, postage prepaid, to the address of the Association as designated in the Articles of Incorporation or Bylaws of the Association. All notices, requests or demands to be served on Mortgagees pursuant hereto shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Mortgagee at such address as the Mortgagee may have furnished to the Association in writing. Unless the Mortgagee furnishes the Association such address, the Mortgagee shall be entitled to receive none of the notices provided for in this Declaration. Any notice referred to in this Section shall be deemed given when deposited in the United States mail in the form provided for in this Section.
- 19.3 Owner's Obligations Continue. All obligations of the Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that such Owner may have conveyed said interest as provided herein, but the Owner of a Condominium Unit shall have no obligation for expenses or other obligations accruing after he conveys such Condominium Unit.
- 19.4 Transfer of Declarant's Rights. Any rights or interests reserved hereby to the Declarant may be transferred or assigned by the Declarant.
- 19.5 Modifications of Declaration and Map by Declarant. Declarant reserves the right to make modifications, additions or deletions in or to this Declaration and the Condominium Map and supplements thereto as may be required by a mortgage lender or insurer, or which shall be needed to correct any non-substantive errors or inconsistencies herein or therein contained. Such modifications, additions or deletions will not increase the cost of Condominium Unit, there will be no material physical modifications of the Project and any such changes will not decrease the financial obligations of Declarant as a Unit Owner.
- 19.6 Sales and Retention of Units by Declarant. Declarant contemplates sale of all of the Condominium Units; however, Declarant reserves the right to retain unsold Units and sell, lease or rent them without the approval of the Association so long as Declarant uses due care and diligence regarding the good character, habits and general desirability of the tenants.

- 19.7 Warrant Disclaimer. Declarant disclaims any intent to warranty or make representations except as is set forth in this Declaration.
- 19.8 Severability. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or work or the application thereof in any circumstance be invalidated, such invalidity shall not effect 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 be not affected thereby.
- 19.9 Rule against Perpetuity. If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (a) the rule against perpetuity or some analogous statutory provision, (b) the rule restricting restraints or alienation, or (c) any other statutory or common law rules imposing time limits, that such provision shall continue only for the period of the life of William Engelman and his now living descendants, and the survivor of them plus twenty-one years.
- 19.10 Statute. The provisions of this Declaration shall be in addition and supplemental to §38-33.3-101, *et seq.*, C.R.S., the Colorado Common Interest Ownership Act of the State of Colorado and to all other provisions of law. In the event of any conflict between this Declaration and the mandatory terms of §38-33.3-101 *et seq.*, C.R.S., the terms of the statute shall prevail.
- 19.11 Title Matters Affecting Real Property. Attached hereto as **Exhibit "E"** is a reference to all matters of record affecting the Real Property.
- 19.12 Applicability. This Declaration shall be binding upon the undersigned, their successors and assigns.

THIS DECLARATION is executed as of the 30TH day of JULY, 1999.

THE GLEN @ HORIZON DRIVE II, LLC.

By CITY MOUNTAIN GRAND JUNCTION, LTD., LLLP., a Colorado limited liability limited partnership, Sole Manager
 By ROCKY MOUNTAIN CONSTRUCTION GRAND JUNCTION, INC., a Colorado corporation, its General Partner

By: William Engelman
 William Engelman, President

STATE OF COLORADO }
 COUNTY OF PITKIN } ss.

The foregoing instrument was acknowledged before me this 30TH day of JULY, 1999, by William Engelman, as President of Rocky Mountain Construction Grand Junction, Inc., General Partner of City Mountain Grand Junction, LTD., LLLP, Sole Manager of The Glen @ Horizon Drive II, LLC.

WITNESS MY HAND AND OFFICIAL SEAL.
 My commission expires: November 13, 1999

[Seal]

Leonard M. Gates
 Notary Public

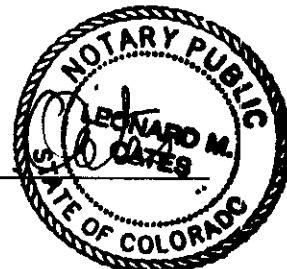


EXHIBIT "A"

PHASE I

A parcel of land located within Block 2 and Tract A of THE GLEN @ HORIZON DRIVE, a plat on file and recorded in Plat Book 16 at Pages 157 and 158 in the office of the Clerk and Recorder of Mesa County at Reception No. 1844205, situate in the N1/2 SW1/4 SE1/4, and the S1/2 NW1/4 SE1/4, Section 2, Township 1 South, Range 1 West, of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, and being more particularly described as follows:

Commencing at a point on the westerly boundary of THE GLEN @ HORIZON DRIVE, whence the center-south sixteenth corner of said Section 2 bears North 09°32'05" West a distance of 308.87 feet;

Thence along said westerly boundary North 11°28'10" East, a distance of 14.23 feet;

Thence continuing along said boundary North 45°28'10" East, a distance of 70.00 feet;

Thence continuing along said boundary North 38°30'00" West, a distance of 7.50 feet;

Thence departing said boundary North 30°09'40" East, a distance of 34.77 feet;

Thence 18.56 feet along the arc of a 25.00 foot radius non-tangent curve to the left, through a central angle of 42°32'35", with a chord bearing North 64°21'05" East, a distance of 18.14 feet to a point of compound curvature;

Thence 7.55 feet along the arc of a 100.00 foot radius curve to the left, through a central angle of 4°19'33", with a chord bearing North 40°55'01" East, a distance of 7.55 feet;

Thence South 59°50'20" East, a distance of 136.50 feet to the northerly right-of-way of Glen Court;

Thence along said northerly right-of-way the following six courses:

1. South 32°34'48" West, a distance of 58.33 feet;
2. 34.87 feet along the arc of a 39.00 foot radius tangent curve to the right, through a central angle of 51°13'52", with a chord bearing South 58°11'50" West, a distance of 33.72 feet to a point of reverse curvature;
3. 15.55 feet along the arc of a 41.00 foot radius curve to the left, through a central angle of 21°43'42", with a chord bearing South 72°56'49" West, a distance of 15.46 feet to a point of reverse curvature;
4. 19.00 feet along the arc of a 39.00 foot radius curve to the right, through a central angle of 27°55'02", with a chord bearing South 76°02'29" West, a distance of 18.82 feet;
5. North 90°00'00" West tangent to said curve, a distance of 79.70 feet;
6. North 45°00'24" West, a distance of 45.32 feet to the Point of Beginning.

Containing 0.422 acres, more or less.

EXHIBIT "B"

PHASE II

A parcel of land located within Block 2 and Tract A of THE GLEN @ HORIZON DRIVE, a plat on file and recorded in Plat Book 16 at Pages 157 and 158 in the office of the Clerk and Recorder of Mesa County at Reception No. 1844205, situate in the N1/2 SW1/4 SE1/4, and the S1/2 NW1/4 SE1/4, Section 2, Township 1 South, Range 1 West, of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, and being more particularly described as follows:

Beginning at the southwest corner of said Block 2 of THE GLEN @ HORIZON DRIVE;
Thence along the westerly boundary of said Block 2 North 00°00'00" East, a distance of 20.14 feet;
Thence continuing along said boundary North 09°27'11" East, a distance of 60.89 feet;
Thence continuing along said boundary North 00°00'06" East, a distance of 59.52 feet;
Thence along the southerly right-of-way of Glen Court North 44°59'43" East, a distance of 40.88 feet;
Thence continuing along said right-of-way South 90°00'00" East, a distance of 84.00 feet;
Thence continuing along said right-of-way 15.71 feet along the arc of a 74.00 foot radius tangent curve to the right, through a central angle of 12°10'03", with a chord bearing South 83°54'59" East, a distance of 15.69 feet to a point of reverse curvature;
Thence continuing along said right-of-way 55.86 feet along the arc of a 76.00 foot radius curve to the left, through a central angle of 42°06'34", with a chord bearing North 81°06'46" East, a distance of 54.61 feet;
Thence departing said right-of-way radial to said curve, South 29°56'31" East, a distance of 42.72 feet;
Thence South 00°00'00" West, a distance of 132.42 feet;
Thence South 89°22'31" West, a distance of 64.45 feet;
Thence South 87°58'50" West, a distance of 149.43 feet to the Point of Beginning.

Containing 0.766 acres, more or less.

EXHIBIT "C"

TRACT A

A parcel of land located within Block 2 and Tract A of THE GLEN @ HORIZON DRIVE, a plat on file and recorded in Plat Book 16 at Pages 157 and 158 in the office of the Clerk and Recorder of Mesa County at Reception No. 1844205, situate in the N1/2 SW1/4 SE1/4, and the S1/2 NW1/4 SE1/4, Section 2, Township 1 South, Range 1 West, of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, and being more particularly described as follows:

Commencing at a point on the northerly boundary of THE GLEN @ HORIZON DRIVE, whence the center-south sixteenth corner of said Section 2 bears South 57°41'16" West a distance of 497.66 feet;

Thence along the westerly and northerly boundary of THE GLEN @ HORIZON DRIVE the following seven courses:

1. South 53°56'00" West, a distance of 18.39 feet;
2. South 36°32'41" West, a distance of 19.41 feet;
3. South 48°36'04" West, a distance of 120.52 feet;
4. South 53°56'00" West, a distance of 207.81 feet;
5. 174.61 feet along the arc of a 185.50 foot radius tangent curve to the left, through a central angle of 53°56'03", with a chord bearing South 26°58'01" West, a distance of 168.24 feet;
6. South 00°00'00" West tangent to said curve, a distance of 73.35 feet;
7. South 38°30'00" East, a distance of 63.82 feet

Thence departing said boundary North 30°09'40" East, a distance of 34.77 feet;

Thence 18.56 feet along the arc of a 25.00 foot radius non-tangent curve to the left, through a central angle of 42°32'35", with a chord bearing North 64°21'05" East, a distance of 18.14 feet; to a point of compound curvature;

Thence 65.59 feet along the arc of a 100.00 foot radius curve to the left, through a central angle of 37°34'44", with a chord bearing North 24°17'26" East, a distance of 64.42 feet;

Thence North 05°30'04" East tangent to said curve, a distance of 12.25 feet;

Thence 45.16 feet along the arc of a 51.51 foot radius tangent curve to the right, through a central angle of 50°14'01", with a chord bearing North 30°37'05" East, a distance of 43.73 feet to a point of reverse curvature;

Thence 29.60 feet along the arc of a 124.97 foot radius curve to the left, through a central angle of 13°34'16", with a chord bearing North 48°56'57" East, a distance of 29.53 feet; to a point of compound curvature;

Thence 20.12 feet along the arc of a 79.37 foot radius curve to the left, through a central angle of 14°31'26", with a chord bearing North 34°54'06" East, a distance of 20.07 feet to a point of reverse curvature;

Thence 34.21 feet along the arc of a 66.13 foot radius curve to the right, through a central angle of 29°38'18", with a chord bearing North 42°27'32" East, a distance of 33.83 feet;

Thence North 57°16'41" East tangent to said curve, a distance of 75.53 feet;

Thence 13.04 feet along the arc of a 80.00 foot radius tangent curve to the right, through a central angle of 9°20'28", with a chord bearing North 61°56'55" East, a distance of 13.03 feet;

Thence North 66°37'09" East tangent to said curve, a distance of 60.04 feet;

Thence 30.74 feet along the arc of a 120.00 foot radius tangent curve to the left, through a central angle of 14°40'46", with a chord bearing North 59°16'46" East, a distance of 30.66 feet;

Thence North 51°56'23" East tangent to said curve, a distance of 34.89 feet;

EXHIBIT "C"
(Continued)

TRACT A

Thence 28.60 feet along the arc of a 80.00 foot radius tangent curve to the right, through a central angle of 20°29'11", with a chord bearing North 62°10'58" East, a distance of 28.45 feet;

Thence North 72°25'34" East tangent to said curve, a distance of 28.68 feet;

Thence 25.93 feet along the arc of a 120.00 foot radius tangent curve to the left, through a central angle of 12°22'51", with a chord bearing North 66°14'08" East, a distance of 25.88 feet;

Thence North 60°02'42" East tangent to said curve, a distance of 23.05 feet;

Thence 35.86 feet along the arc of a 120.00 foot radius tangent curve to the left, through a central angle of 17°07'19", with a chord bearing North 51°29'03" East, a distance of 35.73 feet;

Thence North 42°55'24" East tangent to said curve, a distance of 19.26 feet to the westerly boundary of TRACT B as platted on THE GLEN @ HORIZON DRIVE plat;

Thence along said westerly boundary 99.32 feet along the arc of a 425.00 foot radius non-tangent curve to the left, through a central angle of 13°23'21", with a chord bearing North 49°54'31" West, a distance of 99.09 feet;

Thence continuing along said boundary North 56°36'11" West tangent to said curve, a distance of 77.11 feet to the Point of Beginning.

Containing 1.776 acres, more or less.

EXHIBIT "D"

FUTURE DEVELOPMENT

A parcel of land located within Block 2 and Tract A of THE GLEN @ HORIZON DRIVE, a plat on file and recorded in Plat Book 16 at Pages 157 and 158 in the office of the Clerk and Recorder of Mesa County at Reception No. 1844205, situate in the N1/2 SW1/4 SE1/4, and the S1/2 NW1/4 SE1/4, Section 2, Township 1 South, Range 1 West, of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, and being more particularly described as follows:

Commencing at the southwest corner of said Block 2;

Thence along the south line of said Block 2 North 87°58'50" East, a distance of 149.43 feet;

Thence continuing along said south line North 89°22'31" East, a distance of 64.45 feet to the Point of Beginning;

Thence North 00°00'00" East, a distance of 132.42 feet;

Thence North 29°56'31" West, a distance of 42.72 feet to a point on the right-of-way of Glen Court, on a 76.00 foot radius non-tangent curve to the left, whence the radius point bears North 29°56'31" West;

Thence with said right-of-way the following nine (9) courses:

1. 36.44 feet along the arc of said curve, through a central angle of 27°28'16", with a chord bearing North 46°19'28" East, a distance of 36.09 feet;
2. North 32°34'48" East, a distance of 238.08 feet;
3. 38.61 feet along the arc of a 53.00 foot radius tangent curve to the right, through a central angle of 41°44'15", with a chord bearing North 53°26'55" East, a distance of 37.76 feet;
4. North 74°19'03" East tangent to said curve, a distance of 24.49 feet;
5. 11.00 feet along the arc of a 7.50 foot radius tangent curve to the right, through a central angle of 84°01'50", with a chord bearing South 63°40'02" East, a distance of 10.04 feet; to a point of reverse curvature;
6. 253.45 feet along the arc of a 55.00 foot radius curve to the left, through a central angle of 264°01'50", with a chord bearing North 26°19'58" East, a distance of 81.73 feet;
7. South 74°19'03" West tangent to said curve, a distance of 86.65 feet;
8. 77.94 feet along the arc of a 107.00 foot radius tangent curve to the left, through a central angle of 41°44'15", with a chord bearing South 53°26'56" West, a distance of 76.23 feet;

9. South 32°34'48" West tangent to said curve, a distance of 158.31 feet;

Thence North 59°50'20" West, a distance of 136.50 feet to a point of cusp on a 100.00 foot radius curve concave to the west;

Thence 58.04 feet northeasterly and northerly along the arc of said curve, through a central angle of 33°15'10", with a chord bearing North 22°07'39" East, a distance of 57.23 feet;

Thence North 05°30'04" East tangent to said curve, a distance of 12.25 feet;

Thence 45.16 feet along the arc of a 51.51 foot radius tangent curve to the right, through a central angle of 50°14'01", with a chord bearing North 30°37'05" East, a distance of 43.73 feet; to a point of reverse curvature;

Thence 29.60 feet along the arc of a 124.97 foot radius curve to the left, through a central angle of 13°34'16", with a chord bearing North 48°56'57" East, a distance of 29.53 feet; to a point of compound curvature;

Thence 20.12 feet along the arc of a 79.37 foot radius curve to the left, through a central angle of 14°31'26", with a chord bearing North 34°54'06" East, a distance of 20.07 feet; to a point of reverse curvature;

Thence 34.21 feet along the arc of a 66.13 foot radius curve to the right, through a central angle of 29°38'18", with a chord bearing North 42°27'32" East, a distance of 33.83 feet;

EXHIBIT "D"
(Continued)

FUTURE DEVELOPMENT

- Thence North 57°16'41" East tangent to said curve, a distance of 75.53 feet;
 Thence 13.04 feet along the arc of a 80.00 foot radius tangent curve to the right, through a central angle of 9°20'28", with a chord bearing North 61°56'55" East, a distance of 13.03 feet;
 Thence North 66°37'09" East tangent to said curve, a distance of 60.04 feet;
 Thence 30.74 feet along the arc of a 120.00 foot radius tangent curve to the left, through a central angle of 14°40'46", with a chord bearing North 59°16'46" East, a distance of 30.66 feet;
 Thence North 51°56'23" East tangent to said curve, a distance of 34.89 feet;
 Thence 28.60 feet along the arc of a 80.00 foot radius tangent curve to the right, through a central angle of 20°29'11", with a chord bearing North 62°10'58" East, a distance of 28.45 feet;
 Thence North 72°25'34" East tangent to said curve, a distance of 28.68 feet;
 Thence 25.93 feet along the arc of a 120.00 foot radius tangent curve to the left, through a central angle of 12°22'51", with a chord bearing North 66°14'08" East, a distance of 25.88 feet;
 Thence North 60°02'42" East tangent to said curve, a distance of 23.05 feet to the easterly line of said Block 2;
 Thence along said easterly line the following eight (8) courses:
1. 35.86 feet along the arc of a 120.00 foot radius tangent curve to the left, through a central angle of 17°07'19", with a chord bearing North 51°29'03" East, a distance of 35.73 feet;
 2. North 42°55'24" East tangent to said curve, a distance of 19.26 feet; to a point of cusp on a 425.00 foot radius curve concave to the southwest;
 3. 199.20 feet southeasterly and southerly along the arc of said curve, through a central angle of 26°51'16", with a chord bearing South 29°47'12" East, a distance of 197.38 feet;
 4. South 16°21'34" East tangent to said curve, a distance of 51.93 feet;
 5. 142.84 feet along the arc of a 400.00 foot radius tangent curve to the right, through a central angle of 20°27'39", with a chord bearing South 06°07'45" East, a distance of 142.09 feet;
 6. South 04°06'05" West tangent to said curve, a distance of 79.36 feet;
 7. 75.03 feet along the arc of a 350.00 foot radius tangent curve to the right, through a central angle of 12°16'55", with a chord bearing South 10°14'32" West, a distance of 74.88 feet;
 8. South 16°22'59" West tangent to said curve, a distance of 143.20 feet to the southerly line of said Block 2;
- Thence along said southerly line the following six (6) courses:
1. North 81°53'58" West, a distance of 111.62 feet;
 2. South 75°37'02" West, a distance of 79.19 feet;
 3. South 43°29'56" West, a distance of 49.75 feet;
 4. South 80°08'30" West, a distance of 49.10 feet;
 5. South 83°31'53" West, a distance of 86.77 feet;
 6. South 89°22'31" West, a distance of 19.43 feet to the Point of Beginning.

Containing 5.352 acres, more or less.

EXHIBIT "E"

The right of the proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to intersect said premises as reserved in United States Patent recorded October 9, 1916, in Book 197 at Page 501.

Right of way, if any, for operation and maintenance of the Grand Valley Mainline Canal along the Easterly boundary of the subject property.

Right of way for the Independent Ranchman's Ditch across the Northerly portion of Tract "A".

Permanent easements for Roadway, Slope and Drainage purposes and rights incidental thereto, granted to the City of Grand Junction, as set forth in instrument recorded April 18, 1984, in Book 1489 at Page 547, and as shown on the preliminary plat of The Glen At Horizon (unrecorded) and labeled thereon as "13' Permanent Slope Easement Book 1489 Pg 551" and "5' Permanent Slope Esmt Book 1489 Pg 552".

Multi-purpose easements and rights incidental thereto 14 feet in width as shown on the Subdivision Plat of The Glen @ Horizon Drive, filed for record in Plat Book 16 at Pages 157 and 158.

20.0 foot and 25.0 foot utility easements as shown on said Subdivision Plat.

An easement for Glen Court as shown on Subdivision Plat.

Terms, conditions and provisions of the Amended and Restated Agreement, recorded February 10, 1999 in Book 2550 at Page 143 and re-recorded February 24, 1999 in Book 2555 at Page 125.

Terms, conditions and provisions of Resolution No. 46-97, Concerning The Issuance Of A Revocable Permit To The Glen At Horizon, LLC., recorded October 24, 1997, in Book 2369 at Pages 807 through 813.

Terms, conditions and provisions of Disbursement Agreement (Improvements Guarantee), recorded May 1, 1998, in Book 2435 at Page 330.

Terms, conditions and provisions of the Development Improvements Agreement, recorded May 1, 1998, in Book 2435 at Page 334.