

**MASTER DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS
FOR
TOWN CENTER SUBDIVISION**

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MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR TOWN CENTER SUBDIVISION

THIS MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for Town Center Subdivision ("Master Declaration") is made and entered into by CARSAM REALTY TEN, LTD., a Texas limited partnership ("Declarant"), this 21st day of March, 2003.

ARTICLE 1 IMPOSITION OF COVENANTS

Section 1.1 Purpose. Declarant is the owner of that certain real property located in the Town of Carbondale, Colorado, more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the "Common Interest Community"). Declarant intends to develop upon the Common Interest Community and any annexable property made a part of the Common Interest Community a desirable, high quality, integrated commercial and residential project, to be known as Town Center, in accordance with the provisions of the Colorado Interest Ownership Act, as set forth in Article 33.3, Title 38, Colorado Revised Statutes (the "Act"). The maximum number of lots to be located within the Common Interest Community shall be twenty-five (25), which shall cumulatively have a maximum of 125,000 square feet; provided, however, that all of said lots, individually or any combination, may be improved by the construction of a building which may thereafter be resubdivided or condominiumized into commercial and/or residential condominium units, as hereinafter provided.

Section 1.2 Declaration. Declarant, for itself, its heirs, successors and assigns, hereby declares that the Common Interest Community and all property which shall become subject to this Master Declaration in the manner hereinafter provided, and each part thereof, shall, from the date the same becomes subject to this Master Declaration, be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restriction, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in this Declaration, for the duration hereof, all of which are declared a part of, pursuant to, and in furtherance, of a common and general plan of development, improvement, enhancement and protection of the Common Interest Community. Notwithstanding the foregoing, in no event shall the annexable property, or any portion thereof, be deemed to be burdened, or subject to, the terms of this Declaration until such property has been annexed to the Common Interest Community, at Declarant's sole option, as more particularly provided herein. The provisions of this Declaration are intended to and shall run with the land, and until their expiration in accordance with the terms hereof, shall bind, be a charge upon and inure to the mutual benefit of (a) the Common Interest Community and all property which may become a part of the Common Interest Community; (b) Declarant and its successors and assigns; (c) the Master Association and its successors and assigns; and (d) all persons having or acquiring any right, title or interest in any property which is or becomes part of the Common Interest Community. This Declaration shall be recorded in Garfield County, Colorado in accordance with applicable provisions of the Act.



ARTICLE 2 DEFINITIONS

The following terms, as used in this Master Declaration, are defined as set forth below:

Section 2.1 Act. The Colorado Common Interest Ownership Act, as amended (C.R.S. § 38-33.3-101 et seq.).

Section 2.2 Allocated Interests. "Allocated Interests" shall mean, with respect to each Lot, a fraction or percentage of the undivided interest in the common elements and in the common expenses of the Association allocated to such Lot and a portion of the votes in the Master Association allocated to such Lot in accordance with the percentages set forth in Exhibit B attached hereto and made a part hereof. If Lots are added to or withdrawn from the Common Interest Community, the allocated interests of all Lots shall be reallocated on the basis of a fraction, the numerator of which is the lot area of each specific Lot (as set forth on the applicable Final Plat) and the denominator of which is the aggregate lot area of all Lots then within the Common Interest Community.

Section 2.3 Annexable Property. "Annexable Property" shall mean that real property which is more particularly described on Exhibit C attached hereto and incorporated herein by this reference, and may include such other property which may be annexed to and made a part of the Common Interest Community, as more particularly provided herein.

Section 2.4 Architectural Review Committee. "Architectural Review Committee" shall mean the committee formed pursuant to Article IX of the Master Declaration to maintain the quality and architectural harmony of Improvements within The Riverwalk at Edwards.

Section 2.5 Assessments. "Assessments" shall mean the types of assessments described in Article V below, including Annual, Special and Default Assessments

Section 2.6 Association. "Association" shall mean the Town Center Owners Association, Inc., a Colorado non-profit corporation, its successors and assigns.

Section 2.7 Building. "Building" shall mean a building or structure constructed on a Lot, whether or not governed by a separate association under the Act, in which the Owners of a unit(s) contained therein may have common interest other than those common to all Members at the Master Association.

Section 2.8 Building Assessments. "Building Assessments" shall mean assessments levied pursuant to a specific Building Declaration.

Section 2.9 Building Association. "Building Association" shall mean any association established for a specific Building pursuant to a Building Declaration.

Section 2.10 Building Common Area. "Building Common Area" shall mean any area within a Lot restricted in whole or in part to common use primarily by or for the benefit of the Owners within the Lot and its tenants, employees, guests and invitees.

Section 2.11 Building Declaration. "Building Declaration" shall mean a declaration of covenants, conditions, restrictions and assessments which may be recorded to impose a unified development scheme on a particular Lot.

Section 2.12 Building Documents. "Building Documents" shall mean the documents which may be prepared and may be recorded, as appropriate, to create and govern a particular building, including a condominium map or plat, as applicable, any Supplemental Declaration, the Building Declaration, the articles of incorporation and by-laws of the Building Association, and any procedures, rules, regulations or policies adopted pursuant to such documents.

Section 2.13 Building Expenses. "Building Expenses" shall mean the actual and estimated expenses incurred or anticipated to be incurred by the Building Association for the benefit of the Owner within that building association which may include a reasonable reserve for capital repairs and replacements, as the board of directors for such Building Association thereof may specifically authorize from time to time and as may be authorized herein or in Supplemental Declarations applicable to a Building or Building Association.

Section 2.14 Common Expenses. "Common Expenses" shall mean the actual and estimated expenses incurred, or anticipated to be incurred, by the Master Association for the general benefit of all Owners, include any reasonable reserve, as the Board may find necessary and appropriate pursuant to this Master Declaration, the Master Bylaws, and the Master Articles of Incorporation. Common Expenses shall not include any expenses incurred during the Declarant Control Period as defined in Section 3.2 of this Master Declaration for initial development and construction of infrastructure or other capital improvements, unless such expenses are approved by a majority of the Owners in the Master Association.

Section 2.15 Community Wide Standard. The standard of conduct, maintenance or other activity generally prevailing through the Common Interest Community. Such standard may be more specifically determined by the Board.

Section 2.16 Condominium Unit. "Condominium Unit" shall mean a Unit within a Building, whether commercial or residential, together with all fixtures and improvements therein contained, together with the undivided interest in the Building Common Area.

Section 2.17 Declarant. "Declarant" shall mean CARSAM REALTY TEN, LTD., a Texas limited partnership, and any other person or entity that (a) acquires one or more Lots within the Common Interest Community and prior to or at the time of such acquisition is designated by a written instrument as a successor or assignee of Declarant under this Master Declaration. Such instrument may specify the extent and portion of the rights or interests as a Declarant which are being assigned, in which case CARSAM REALTY TEN, LTD. shall retain all other rights as Declarant.

Section 2.18 Declarant Control Period. "Declarant Control Period" shall mean and refer to the specific Declarant rights as provided in Section 3.2 of the Master Declaration.

Section 2.19 Declaration or Master Declaration. "Declaration" or "Master Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions and Easements for Town Center Subdivision, as amended and supplemented from time to time and also including, but not limited to, any plats for Town Center Subdivision.

Section 2.20 Design Guidelines. "Design Guidelines" shall mean the guidelines and rules published and amended and supplemented from time to time by the Architectural Review Committee.

Section 2.21 Developed Lot. "Developed Lot" shall mean any Lot upon which Improvements have been constructed and for which a certificate of occupancy has been issued by the Town of Carbondale, Colorado.

Section 2.22 Development Rights. "Development Rights" shall mean any right or combination of rights reserved to a Declarant in this Declaration to add real estate to the Common Interest Community, to create lots or common elements within the Common Interest Community in connection with the addition of such real estate, and to subdivide lots or convert lots into common elements.

Section 2.23 Executive Board. "Executive Board" or "Board" shall mean the governing body of the Town Center Owners Association, Inc.

Section 2.24 Improvement(s). "Improvement(s)" shall mean all Buildings, driveways, pedestrian ways, parking areas, loading areas, fences, walls, hedges, plantings, poles, driveways, gardens, sprinkler systems and other landscaping changes, signs, mailbox structures, changes in any exterior color or shape, excavation and all other site work, including, without limitation, grading, road construction, utility improvements, removal of trees or plantings, monuments, ducts, shafts and flues, conduit installation areas, storage facilities for supplies and equipment, earth walls, retaining walls and other road supports, lighting, and any new exterior construction or exterior improvement which may not be included in the foregoing. "Improvement(s)" does not include turf, shrub, or tree

repair or replacement of a magnitude which does not change exterior colors or exterior appearances. "Improvement(s)" includes both original improvements and all later changes and improvements.

Section 2.25 Lot. "Lot" shall mean any parcel of land designated as a lot on the most recent Final Plat of any portion of the Common Interest Community. A "Lot" may or may not be improved with a Building, yet will remain subject to this Master Declaration.

Section 2.26 Manager. "Manager" shall mean such person or entity that may be retained by the Executive Board to perform certain functions of the Board pursuant to this Master Declaration or the Master Bylaws.

Section 2.27 Map. "Map" means that part of a declaration that depicts all or any portion of a Building in three dimensions, is executed by a person that is authorized by the act to execute a declaration related to the Common Interest Community, and is recorded in the real estate records of Garfield County, Colorado.

Section 2.28 Master Articles or Master Articles of Incorporation. "Master Articles" or "Master Articles of Incorporation" shall mean the Articles of Incorporation of Town Center Owners Association, Inc. will be filed with the Secretary of State to create the Master Association, as amended from time to time.

Section 2.29 Master Association. "Master Association" shall mean Town Center Owners Association, Inc., a nonprofit membership corporation, or any successor of the Master Association by whatever name, charged with the duties and obligations set forth in this Master Declaration, as described in Section 35-33.3-220 of the Act.

Section 2.30 Master Bylaws. "Master Bylaws" shall mean the Bylaws of Town Center Owners Association, Inc. which establish the methods and procedures of its operation, as amended from time to time.

Section 2.31 Master Common Area. "Master Common Area" shall mean any real property in which the Master Association from time to time holds an interest for the common use and enjoyment of some or all of the Members. Such interest may include, without limitation, estates in fee, leasehold estates, licenses, permits or easements.

Section 2.32 Master Documents. "Master Documents" shall mean the basic documents creating and governing all or part of the Common Interest Community, as they may be amended from time to time, including, but not limited to, this Master Declaration, the Master Articles of Incorporation, and the Master Bylaws, and any other procedures, rules and regulations or policies adopted under such documents by the Master Association.

Section 2.33 Member. "Member" shall mean any person or entity holding membership in the Master Association pursuant to Section 3.1 below.

Section 2.34 Owner. "Owner" shall mean the owner of record, whether one or more persons or entities, of fee simple title to any Lot including a Building Association, but shall not mean or refer to any person or entity who holds such interest merely as security for the performance of a debt or other obligation unless and until fee simple title has vested in such person or entity pursuant to foreclosure or other proceedings.

Section 2.35 Plat. "Plat" shall mean that part of declaration that is a land survey plat and depicts all or any portion of the Common Interest Community in two dimensions, is executed by a person that is authorized by the act to execute a declaration relating to the Common Interest Community and is recorded in the real estate records of Garfield County. A Plat and a map may be combined in one instrument.

Section 2.36 Special Declarant Rights. "Special Declarant Rights" shall mean any right reserved for the benefit of the Declarant to perform the following acts: To complete improvements indicated on plats and maps filed with this Declaration; to exercise any develop rights; to maintain sales offices, management offices, signs advertising the Common Interest Community, and models; to use easements through the Common Interest Community for the purpose of making improvements within the Common Interest Community or within any real estate which may be added to the Common Interest Community; to make any portion of the Common Interest Community subject to Building Associations; to merge or consolidate a common interest community of the same form of ownership; or to appoint or remove any officer of the Association or any Executive Board member during any period of Declarant control to the extent provided in C.R.S. 38-33.3-303. The Declarant may exercise any or all of the Special Declarant Rights with respect to any portion of the property now or hereafter within the Common Interest Community. Declarant may exercise any or all of said Special Declarant Rights at any time and from time to time. Such rights shall terminate automatically on the earlier of the following events: (a) Conveyance of the last lot by Declarant to an owner other than Declarant; or (b) twenty (20) years from the date of recordation of this Declaration; except that such Special Declarant Rights shall not terminate automatically with respect to the appointment of officers and directors, which may only be exercised in accordance with Article 3 hereof.

Section 2.37 Supplemental Declaration. "Supplemental Declaration" shall mean a written instrument containing covenants, conditions, restrictions, reservations, easements, or equitable servitudes, or any combination thereof, which may be recorded on any portion of the Annexable Property in accordance with Section 10.8 of this Master Declaration.

Section 2.38 Supplemental Plat. "Supplemental Plat" shall mean and include any land survey plat which is recorded by Declarant for the purpose of annexing the property described therein to the Common Interest Community.

Section 2.39 Undeveloped Lot. "Undeveloped Lot" shall mean any Lot for which no Improvements have been constructed and for which no certificate of occupancy or temporary certificate of occupancy has been issued by the Town of Carbondale, Colorado.

Section 2.40 Unit. "Unit" or "Condominium Unit" means an air space or other defined physical portion of a Building which is designated for separate ownership or occupancy and the boundaries of which are described in or determined from the Building Declaration.

ARTICLE 3 OPERATION OF THE MASTER ASSOCIATION

Section 3.1 Membership. Every Owner of a Lot, or in the case of a Lot being improved with a Building containing Condominium Units, the Building Association for such Building, shall be a member of the Master Association. Membership shall be appurtenant to and cannot be separated from fee simple ownership of the Lot owned by such Member. No Owner or Building Association, whether one or more persons, shall have more than one membership per Lot owned or no more than one membership per Building Association. However, all of the persons owning such Lot or Owners of a Unit in a Building Association shall be entitled to rights of membership and of use and enjoyment appurtenant to such ownership. The Owner of each Lot, or the Building Association for each Lot, shall be entitled to vote in accordance with the Allocated Interests set forth in Exhibit B attached hereto.

Section 3.2 Executive Board. The affairs of the Master Association shall be managed by an Executive Board which shall consist of the number of members which is set forth in the Master Documents, as amended from time to time. From the date of formation of the Master Association until the termination of Declarant's control as provided below, Declarant shall have the right to appoint and remove all members of the Executive Board and all officers of the Master Association. The period of Declarant's control of the Association shall terminate upon the first to occur of (i) sixty (60) days after conveyance of seventy-five percent (75 %) of the Lots in the Common Interest Community to Owners other than a Declarant, (ii) two (2) years after the last conveyance of a Lot by a Declarant in the ordinary course of business, or (iii) two (2) years after Declarant's right to add Lots to the Common Interest Community was last exercised. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the period of Declarant's control, but, in that event, Declarant may require, for the duration of the period of Declarant's control, that specified actions of the Master Association or Executive Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective. Not later than sixty (60) days after conveyance of twenty-five percent (25 %) of the Lots to Owners other than a Declarant, at least one member and not less than twenty-five percent (25 %) of the members of the Executive Board will be elected by Owners other than a Declarant. Not later than sixty (60) days after the conveyance of fifty percent (50%) of the Lots to Owners other than a Declarant, not less than thirty-three and one-third percent (33⅓%) of the members of the

Executive Board will be elected by Owners other than a Declarant. Not later than the termination of the period of Declarant's control as provided above, the Owners (including Declarant) shall elect the Executive Board of at least three (3) members, at least a majority of whom must be Owners other than a Declarant and the Executive Board shall elect the officers, with such Board members and officers to take office upon election. Within sixty (60) days after the Owners other than Declarant elect a majority of the Executive Board, Declarant shall deliver to the Master Association all property of the Owners and the Master Association held or controlled by Declarant, including without limitation those items specified in Section 38-33.3-303(9) of the Act.

Section 3.3 Compliance, with Documents. Each Member shall abide by and benefit from the provisions, covenants, conditions and restrictions contained in the applicable Master Declaration, Master Documents, if any, and the Rules and Regulations as set forth below.

Section 3.4 Rules and Regulations. The Master Association, from time to time and subject to the provisions of the Master Documents, may adopt, amend and repeal rules and regulations, to be known as "Town Center Rules and Regulations".

Section 3.5 Rights and Obliations of the Master Association.

3.5.1 Master Common Area. The Master Association, subject to the rights of the Owners set forth in this Master Declaration, shall manage and control the Master Common Area and all improvements thereon (including, without limitation, equipment, and common landscaped areas), and shall keep it in good, clean, attractive and sanitary condition, order and repair, pursuant to the terms and conditions hereof and consistent with Community Wide Standard.

3.5.2 Personal Property and Real Property for Common Use. The Master Association, through action of its Executive Board, may acquire, hold and dispose of tangible and intangible personal property and real property. The Declarant has the right to convey to the Master Association any improved or unimproved Lot located within the Common Interest Community and personal property, leasehold, or any other property interests. Such property shall be accepted by the Master Association and thereafter shall be maintained at its expense for the benefit of its Members, subject to any restrictions set forth in the deed.

3.5.3 Books and Records. The Master Association shall make available for inspection, upon request, during normal business hours or under other reasonable circumstances, to any Owner and its mortgagee(s), current copies of the Master Documents, and the books, records and financial statements of the Master Association prepared pursuant to the Master Bylaws. The Master Association may charge a reasonable fee for copying such materials.

3.5.4 Successor to Declarant. The Master Association shall assume all of the rights, duties and responsibilities of Declarant excluding rights specific to Declarant under this Master Declaration upon termination of the Declarant Control Period in accordance with Section 3.2 above.

3.5.5 Implied Rights and Obligations. The Master Association may exercise any other right or privilege given to it expressly by the Master Documents, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Master Association under the Master Documents or reasonably necessary to effectuate any such right or privilege. The Master Association shall perform all of the duties and obligations imposed on it expressly by the Master Documents, together with every other duty or obligation reasonably to be implied from the express provisions of the Master Documents or reasonably necessary to satisfy any such duty or obligation.

3.5.6 Powers of the Master Association Relating to Lots and/or Building Association. Each Owner of a Lot or a Building Association is a voting Member of the Master Association. The Master Association shall have the enforcement power, provided it is in this Declaration, to require specific action to be taken by any Building Association or Owner of a Lot, in connection with its obligations and responsibility hereunder or under any other covenants affecting the Lot or Building Association. Further, the Master Association may impose sanctions for violation of the Master Documents in accordance with the procedures set forth in such Master Documents.

ARTICLE 4 MAINTENANCE

Section 4.1 Master Association's Responsibility. The Master Association shall maintain and keep the Master Common Area in good repair, such maintenance to be funded as provided below. Moreover, the Master Association may provide for the care and maintenance of other areas of the Common Interest Community in accordance with the terms and provisions as provided below. This maintenance may include, but not be limited to, maintenance, snow removal, repair and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, and Improvements including, but not limited to, sidewalks, walkways, sidewalk lighting, water features, pedestrian bridges, fountains, sod landscaping, gardens and planters, landscape irrigation, common area signs, trash receptacles, benches, building flower boxes, building lights, building signs, parking structures, surface guest parking, trash dumpsters, roads, entry and street signs, and irrigation ditches or pipes. The Master Association, in the discretion of the Executive Board, may at any time and from time to time, assign to a Building Association or to owners of individual Condominium Units within a Building maintenance responsibilities previously assumed by the Master Association for limited areas of the Master Common Area in exchange for exclusive use of such portion of the Master Common Area in accordance with Rules and Regulations of the Master Association then in effect.

Section 4.2 Owner's Responsibility. Except as provided otherwise in the Master Documents, applicable Building Documents, or by written agreement with the Master Association or applicable Building Association, all maintenance of the Lots and all structures, landscaping, parking areas, and other Improvements located on or comprising part of a Lot shall be the sole responsibility of the Owner thereof, who shall maintain the Lot in accordance with the Community-Wide Standard. The Master Association shall, in the discretion of the Executive Board, assume the maintenance responsibilities of such Owner or Building Association if, in the opinion of the Executive Board, the level and quality of maintenance being provided by such Owner does not satisfy such Community-Wide Standard. Before assuming the maintenance responsibilities, the Executive Board shall notify the Owner in writing of its intention to do so, and if such Owner or the Building Association has not commenced and diligently pursued remedial action within thirty (30) days after mailing of such written notice, then the Master Association shall proceed. The expenses of such maintenance by the Executive Board shall be reimbursed to the Master Association by the Owner, together with interest at eighteen percent (18%) per annum. Such charges shall be a default Assessment and lien on the Lot of the Owner as provided in Section 5.7 below.

ARTICLE 5 ASSESSMENTS

Section 5.1 Obligation. Declarant, for each Lot owned by Declarant, hereby covenants, and each Owner, by accepting a deed for a Lot, is deemed to covenant to pay to the Association (1) the Annual Assessments imposed by the Executive Board as necessary to meet the Common Expenses of maintenance, operation, and management of the Master Common Area and to perform the functions of the Master Association; (2) Special Assessments for capital improvements and other purposes as stated in this Master Declaration; and (3) Default Assessments which may be assessed against a Lot for the Owner's failure to perform an obligation under the Master Documents or because the Master Association has incurred an expense on behalf of the Owner under the Master Documents.

Section 5.2 Purpose of Assessments. The Assessments shall be used exclusively to promote the health, safety and welfare of the Owners and occupants of the Common Interest Community, for maintenance of the Master Common Area, and for any improvements and to the Master Common Area, as more fully set forth in this Article below.

Section 5.3 Budget. Within thirty (30) days after the adoption of any proposed budget for the Master Association, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than ten (10) nor more than fifty (50) days after mailing or other delivery of the summary. Unless at that meeting a majority of all Owners reject the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is



rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board. The Executive Board shall adopt a budget and submit the budget to a vote of the Owners as provided herein no less frequently than annually. The Executive Board shall levy and assess the Annual Assessments in accordance with the annual budget.

Section 5.4 Annual Assessments. Annual Assessments for Common Expenses made shall be based upon the estimated cash requirements as the Executive Board shall from time to time determine to be paid by all of the Owners. Estimated Common Expenses shall include, but shall not be limited to, the cost of routine maintenance and operation of the Master Common Area, expenses of management; taxes and special governmental assessments pertaining to the Master Common Area and insurance premiums for insurance coverage as deemed desirable or necessary by the Master Association; landscaping, care of grounds, common lighting within the Master Common Area; routine repairs and renovations relating to Master Common Area; wages; common water and utility charges for the Master Common Area; legal and accounting fees; management fees; expenses and liabilities incurred by the Master Association under or by reason of this Master Declaration; payment of any default remaining from a previous assessment period; and the creation of a reasonable contingency or other reserve or surplus fund for general, routine maintenance, repairs, and replacement of improvements relating to the Master Common Area on a periodic basis, as needed.

Annual Assessments shall be payable on a prorated basis each quarter in advance and shall be due on the first day of each quarter, or at such other times no more frequently than quarterly as shall be established from time to time by the Executive Board. The omission or failure of the Master Association to fix the Annual Assessments for any assessment period shall not be deemed a waiver, modification, or release of the Owners from their obligation to pay the same. The Master Association shall have the right, but not the obligation, to make prorated refunds of any Annual Assessments in excess of the actual expenses incurred in any fiscal year.

Section 5.5 Apportionment of Annual Assessments. Each Owner shall be responsible for that Owner's share of the Common Expenses, which shall be divided equally among the Lots on the basis of the Allocated Interests in effect on the date of assessment.

Section 5.6 Special Assessments. In addition to the Annual Assessments authorized by this Article, the Master Association may, if permitted under the Act, levy in any fiscal year one or more Special Assessments, payable over such a period as the Master 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 improvements within the Master Common Area, or for any other expense incurred or to be incurred as provided in this Master Declaration. This Section 5.6 shall not be construed as an independent source of authority for the Master Association to incur expense, but shall be construed to prescribe the manner of assessing expenses authorized by other sections of this Declaration, and in acting under this Section, the Master Association shall make specific references to this Section. Any amounts assessed pursuant to this Section shall be assessed

to Owners in the same proportion as provided for Annual Assessments in Article V, Section 5.5., subject, however, to the requirements that any extraordinary insurance costs incurred as a result of the value of a particular Owner's Lot or the actions of a particular Owner (or his agents, servants, guests, tenants, or invitees) shall be borne by that Owner. Notice in writing in the amount of such Special Assessments and the time for payment of the Special Assessments 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. Special Assessments are currently restricted under the Act.

Section 5.7 Default Assessments. All monetary fines assessed against an Owner pursuant to the Master Documents, or any expense of the Master Association which is the obligation of an Owner or which is incurred by the Master Association on behalf of the Owner pursuant to the Master Documents, shall be a Default Assessment and shall become a lien against such Owner's Lot which may be foreclosed or otherwise collected as provided in this Master Declaration. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least thirty (30) days prior to the due date.

Section 5.8 Effect of Nonpayment; Assessment Lien. Any Assessment installment, whether pertaining to any Annual, Special, or Default Assessment, which is not paid within thirty (30) days after its due date shall be delinquent. If an Assessment installment becomes delinquent, the Master Association, in its sole discretion, may take any or all of the following actions:

5.8.1 Assess a late charge for each delinquency in such amount as the Master Association deems reasonable and appropriate;

5.8.2 Assess an interest charge from the date of delinquency at the yearly rate of eighteen percent (18 %), or such other rate as the Executive Board may establish or as may be required by law;

5.8.3 Suspend the voting rights of the Owner during any period of delinquency;

5.8.4 Accelerate all remaining Assessment installments so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;

5.8.5 Bring an action at law against any Owner personally obligated to pay the delinquent Assessments; and

5.8.6 File a statement of lien with respect to the Lot and proceed with foreclosure as set forth in more detail below.

Assessments chargeable to any Lot shall constitute a lien on such Lot, including the Lot and any other improvements thereon. To evidence the lien created under this Section 5.8, the Master Association may, but shall not be required to, prepare a written notice setting forth (i) the address



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of the Master Association, (ii) the amount of such unpaid indebtedness, (iii) the amount of accrued penalty on the indebtedness, (iv) the name of the Owner of the Lot, and (v) a description of the Lot. The notice shall be signed and acknowledged by the President or Vice-President of the Master Association or by the Manager, and the Master Association shall serve the notice upon the Owner by certified mail to the address of the Lot or to such other address as the Master Association may have in its files for such Owner. After the Master Association mails the Owner such a notice, the Master Association may record the same in the office of the Clerk and Recorder of Garfield County, Colorado. Such lien for Assessments shall attach from the due date of the Assessment. Following the date the Master Association mails the notice, the Master Association may institute foreclosure proceedings against the defaulting Owner's Lot in the manner for foreclosing a mortgage on real property under the laws of the State of Colorado. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien, and all reasonable attorneys' fees incurred in connection with the enforcement of the lien. The Master Association shall have the power to bid oil a Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same.

Section 5.9 Personal Obligation. The amount of any Assessment chargeable against any Lot shall be a personal and individual debt of the Owner of same, including any members of a Building Association. No Owner may exempt himself from liability for the Assessment by abandonment of his Lot or by waiver of the use or enjoyment of all or any part of the Master Common Area. Suit to recover a money judgment for unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, and all reasonable attorneys' fees in connection therewith shall be maintainable without foreclosing or waiving the Assessment lien provided in this Master Declaration.

Section 5.10 Successor's Liability for Assessments; Subordination of Lien. The provisions of the Act shall govern and control (a) the obligations of successors to the fee simple title of a Lot on which Assessments are delinquent and (b) the subordination by the lien of the Assessments provided for in this Master Declaration.

Section 5.11 Payment by Mortgagee. Any Mortgagee holding a lien on a Lot may pay any unpaid Assessment payable with respect to such Lot, together with any and all costs and expenses incurred with respect to the lien, and upon such payment that Mortgagee shall have a lien on the Lot for the amounts paid with the same priority as the lien of the Mortgage.

Section 5.12 Statement of Status of Assessment Payment. Upon payment of a reasonable fee set from time to time by the Executive Board and upon the written request of any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Lot, the Executive Board shall issue a written statement setting forth the amount of the unpaid Assessments, if any, with respect to such Lot. Unless such statement shall be issued (which shall include posting in the United States mails) within fourteen (14) business days, all unpaid Assessments which become due prior to the

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date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest in the Lot subsequent to requesting such statement. If the request is made by a prospective purchaser, both the lien for the unpaid Assessment and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within the fourteen (14) business day period provided for above, and if after that period an additional written request is made by such purchaser and is not complied with within ten (10) days and the purchaser subsequently acquires the Lot.

Section 5.13 Working Capital Fund. The Master Association or Declarant may require the Owner of each Lot to make a non-refundable payment to the Master Association in an amount equal to twenty-five percent (25%) of the amount of the total Annual Assessment applicable to such Lot at the time of conveyance to such Owner. For each Owner after the first Owner, such payment shall be recalculated at the time of transfer and the new Owner shall be responsible for any increase in the amount due. Such sums shall be held by the Master Association and maintained in a segregated account for the use and benefit of the Master Association, including meeting unforeseen expenses. Such payment shall not be deemed to be prepayment of any Assessment but shall be deemed a payment to the working capital fund and shall not relieve an Owner from making the regular payment of Assessments as the same become due. The payment to the working capital fund shall be due from the first Owner on the date of the commencement of the first Annual Assessment and from each subsequent Owner on the date of the first Annual Assessment following the transfer. Upon the transfer of any Lot or Building, an Owner shall be entitled to a credit from such transferee (but not from the Master Association) for the aforesaid payment to the working capital fund.

Section 5.14 Building Associations. All Building Associations shall agree with the Master Association to collect Assessments of the Master Association as part of its Building Assessments and remit them to the Master Association on a timely basis. Collection of the Master Association's Assessments in this manner shall not prevent the creation of the Master Association's lien against any Lot or impair the Master Association's ability to enforce or collect its Assessments as provided under this Master Declaration if they are not remitted to the Master Association in a timely manner.

ARTICLE 6 ARCHITECTURAL REVIEW COMMITTEE

Section 6.1 Composition of Committee; Discussions with Building Associations. The Architectural Review Committee is hereby created to enforce the construction requirements and restriction under Article 7 hereof and to otherwise ensure that all Improvements within the Common Interest Community are integrated and comply with the standards of the downtown Carbondale Historic District. The Architectural Review Committee shall, consist of three (3) or more persons appointed by the Executive Board provided, however, that until all of the Lots have been conveyed by Declarant to Owners other than Declarant, the Declarant retains the right to appoint all members of the Architectural Review Committee who shall serve at the discretion of Declarant. The power to "appoint," as provided herein, shall include without limitation the power to: constitute the initial

membership of the Architectural Review Committee; appoint member(s) to the Architectural Review Committee on the occurrence of any vacancy therein, for whatever reason; and remove any member of the Architectural Review Committee, with or without cause, at any time, and appoint the successor thereof. Each such appointment may be made for such term(s) of office, subject to the aforesaid power of removal, as may be met from time to time in the discretion of the appointer.

Section 6.2 Review by Committee. No Improvements shall be constructed, erected, placed, planted, applied or installed upon any Lot or Building, or upon any Master Common Area, unless complete plans and specifications therefor (said Plans and specifications to show exterior design, height, materials, color, and location of the Improvements, plotted horizontally and vertically, location and size of driveways, location, size, and type of landscaping, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Committee), shall have been first submitted to and approved in writing by the Architectural Review Committee. The Architectural Review Committee shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residences, landscaping, structures and laws. In its review of such plans, specifications and other materials and information, the Architectural Review Committee may require that the applicants reimburse the Committee for the actual expenses incurred by the Committee in the review and approval process, with such submittal fees to be set by the Executive Board. Such amounts, if any, shall be levied in addition to the Common Expense assessment against the Lot for which the request for Architectural Review Committee approval was made, and shall be subject to the Association's lien for assessments and subject to all other rights of the Association for the collection of such assessments, as more fully provided in this Master Declaration.

Section 6.3 Town's Requirements. In addition to all other matters set forth in this Master Declaration, the Committee shall provide notice to each Applicant for approval of an Improvement that the Town, as part of its building permit application process for Town Center, will require an engineered foundation, grading and drainage plan.

Section 6.4 Required Approval by Any Building Association Architectural Committee. In addition to approval of Improvement to Property by the Architectural Review Committee of the Master Association, approval of an Improvement shall also be required by the Architectural Committee of any Building Association if and to the extent set forth in the Building Documents related to such Building Association.

Section 6.5 Criteria for Approval. The Architectural Review Committee shall approve any proposed Improvement only if it deems in its reasonable discretion that the Improvement in the location indicated will not be detrimental to the Common Interest Community, that the appearance of the proposed Improvement will be in harmony with the surrounding areas of the Common Interest Community; that the Improvement will not detract from the beauty, wholesomeness and attractiveness of the Common Interest Community or the enjoyment thereof by Owners; and that the Improvements comply with Carbondale's Historic Commercial Core zone district. The Architectural

Committee may condition its approval of any proposed Improvement upon the making of such changes therein as the Architectural Committee may deem appropriate. In connection with Improvement to be made upon the Master Common Area the Architectural Review Committee shall encourage the installation of a snow melt system and otherwise advise the Owner making such Improvement to make provision for the melting or removal of snow.

Section 6.6 Procedures. The Architectural Review Committee shall approve or disapprove all requests for approval within forty-five (45) days after the complete submission of all plans, specifications, and other materials and information which the Committee may require in conjunction therewith. If the Architectural Review Committee fails to approve or disapprove any request within forty-five (45) days after the complete submission of all plans, specifications, materials and other information with respect thereto, approval shall not be required and this Article shall be deemed to have been fully complied with.

Section 6.7 Vote and Appeal. A majority vote of the Architectural Review Committee is required to approve a request for approval pursuant to this Article, unless the Committee has appointed a representative to act for it, in which case the decision of such representative shall control. In the event a representative acting on behalf of the Architectural Review committee approved or denies a request for architectural approval, any Owner shall have the right to an appeal of such decision to the full Committee, upon a request therefor submitted to the Committee within thirty (30) days after such approval or denial by the Committee's representative.

Section 6.8 Records. The Architectural Review Committee shall maintain written records of all applications submitted to it and all actions taken by it thereon, and such records shall be available to Members for inspection at reasonable hours of the business day.

Section 6.9 Liability. The Architectural Review Committee and the members thereof, as well as any representative of the Committee appointed to act on its behalf, shall not be liable in damages to any Person submitting requests for approval or to any owner by reason of any act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder.

Section 6.10 Variance. The Architectural Review Committee may grant reasonable variances on or adjustments from any conditions and restrictions imposed by this Article or Article 7 hereof, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or improvements in the neighborhood and shall not militate against the general intent and purpose hereof.

Section 6.11 Waivers. The approval or consent of the Architectural Review Committee, or any representative thereof, to any application for architectural approval shall not be deemed to

constitute a waiver of any right to withhold or deny approval or consent by the Committee, or any representative thereof, as to any application or other matters whatsoever as to which approval or consent may subsequently or additionally be required.

Section 6.12 Enforcement. Any or Improvement constructed, whether completed or not, in violation of this Article shall be deemed to be nonconforming. Upon written request from the Executive Board or the Declarant, Owners shall, at their own cost and expense, remove such Improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Executive Board or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same conditions as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the Lot or Building and collected as a Default Assessment.

ARTICLE 7 DESIGN REQUIREMENTS AND USE RESTRICTIONS

Section 7.1 General Plan. It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Common Interest Community, all in order to enhance the value, desirability, and attractiveness of the land and Buildings within the Common Interest Community.

Section 7.2 Restrictions Imposed. This Common Interest Community is subject to the recorded easements, licenses and other matters listed on Exhibit D attached hereto and incorporated herein by this reference. In addition, the Declarant hereby declares that all of the Units shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Master Declaration.

Section 7.3 Compliance With Laws. All Improvements shall be constructed and maintained in accordance with all local, state and federal laws, rules and regulations applicable thereto.

Section 7.4 Shop Signs. No exterior sign, symbol, advertisement, or billboard will be erected, maintained, displayed, or permitted on or about any portion of the Common Interest Community except such signage which complies with both the sign criteria approved by the Declarant and the Architectural Review Committee and the sign ordinances of the Town of Carbondale. No exterior building or freestanding sign shall utilize flashing, moving or audible lights or appurtenances.

Section 7.5 Barriers. No hedge, fence, wall, or other like barrier or barricade may be constructed on the line separating one Lot from another Lot, or upon the Common Elements, or any



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portion thereof which shall prevent, impede or impair the use or exercise of any of the easements herein granted, or free access and movement upon the Common Elements unless expressly approved by the Declarant and the Architectural Review Committee. Each Owner shall have the right to take such steps as it deems necessary to prevent unauthorized persons from using the Common Elements.

Section 7.6 Type and Design of Building. For purposes of this Section the “front” of any building is defined as any side of a building which faces a public street (Sixth Street, Colorado Avenue or Fourth Street) or the north/south pedestrian easement through the Project which is identified on the Plat as Master Common Area. Corner Lots and Lots facing a public street and the pedestrian easement shall be considered to have two fronts.

7.6.1 In order to produce an architecturally compatible unified Common Interest Community, each Building in the Common Interest Community, now or in the future, shall be of first quality construction and architecturally designed so that its exterior elevation (including signs) and color will be architecturally and aesthetically compatible and harmonious with other buildings in the Common Interest Community and the Town of Carbondale’s Historic Commercial Core zone district. No building may be constructed or the exterior of any existing building changed (including, without limitation, signs and color) without the prior written approval of the Architectural Review Committee as to the exterior design, color and elevations of the building to be constructed or modified. No modular buildings may be constructed within the Common Interest Community unless they are in accordance with any applicable ordinance or regulation of the Town of Carbondale.

7.6.2 No building shall be built in such a manner as to adversely affect the structural integrity of any other building in the Common Interest Community.

7.6.3 No building shall exceed three (3) stories in height, nor shall any building exceed thirty-five feet (35') in height (including mechanical fixtures and equipment and screening for same).

7.6.4 Traditional architectural elements related to massing, scale and detailing should be incorporated with all new construction.

7.6.5 The significant feature of the Common Interest Community shall be the horizontal relationship of all buildings within the project. This alignment shall occur with the architectural cornices at the top of each Building, along with the alignment of storefronts and window moldings or treatments at the first floor or street level. This horizontal alignment shall also provide for a visual separation between the street level and the upper stories.



7.6.6 The front of all buildings shall create a strong edge to the street and the Master Common Area which it faces. A minimal setback from the Lot line is desired. Plazas may occur in these areas but still require that an edge is defined. For plaza areas only, an edge may be defined by a change of paving materials or color. Recessed entryways into retail spaces are encouraged.

7.6.7 Buildings along Carbondale's existing Main Street are dense even though gaps do occur. To be consistent with this existing streetscape, when a gap must occur, an edge still must be defined by the use of columns, hedges, low walls or other screen items to define an edge.

7.6.8 The street level of all buildings shall be clearly distinguishable from the upper floors of the building. The street level for retail uses shall consist predominately of glass with a small percentage of opaque materials. On upper floors, smaller windows and more opaque materials shall be used. Other Architectural detailing such as balconies, bay windows, and stone windowsills are encouraged.

7.6.9 Brick and finished wood shall be the dominant materials on the Fronts of all buildings. Stucco will be accepted on upper floors if only brick is used on the street level. If stucco is to be used on the upper floors, windows must be treated with architectural detailing such as stone sills and headers, shadowlines or recesses. Flush mounted windows on the exterior face of any wall will not be accepted. Stucco and other materials are acceptable only if the other guidelines are adhered to. This guideline shall apply to the Front of buildings. The sides and rear of any building may be of any material approved by the architectural review committee.

7.6.10 Each Building shall be treated as a composition of smaller components such as flat fronts, bay windows, cornices and street level display windows. Windows of similar size and rectangular shapes are encouraged.

7.6.11 Repetitions of similar façade elements, windows, details, ornaments and cornice moldings or detailing shall be used to provide a rhythm or pattern on the Front facades of all buildings.

Section 7.7 Construction Requirements.

7.7.1 All work performed in the construction, maintenance, repair, replacement, alteration or expansion of any Building, sign or Master Common Area improvements located in the Common Interest Community shall be effected as expeditiously as possible and in such a manner as not to unreasonably interfere, obstruct or delay access to or from the Common Interest Community, or any part thereof, to or from any public right-of-way, (ii) customer vehicular parking in that portion of the improved Master Common Area located in front of

any building constructed in the Common Interest Community, or (iii) the receiving of merchandise by any business in the Common Interest Community. Staging for the construction, replacement, alteration or expansion of any building, sign or Master Common Area improvements located in the Common Interest Community including, without limitation, the location of any temporary buildings or construction sheds, the storage of building materials, and the parking of construction vehicles and equipment shall be limited to that portion of the Common Interest Community approved in writing by the Architectural Review Committee. Unless otherwise specifically stated herein, the person contracting for the performance of such work ("Contracting Party") shall, at its sole cost and expense, promptly repair and restore or cause to be promptly repaired and restored to its prior condition all buildings, signs and Master Common Area improvements damaged or destroyed in the performance of such work.

7.7.2 The Contracting Party shall not permit any liens to stand against any portion of the Common Interest Community for any work done or materials furnished in connection with the performance of the work described in subparagraph (a) above; provided, however, that the Contracting Party may contest the validity of any such lien, but upon a final determination of the validity thereof, the Contracting Party shall cause the lien to be immediately satisfied and released of record. The Contracting Party shall indemnify, defend and hold harmless the Owners and Occupants of the Common Interest Community from any and all liability, claims, damages, expenses (including reasonable attorneys' fees and costs and reasonable attorneys, fees and costs on any appeal), liens, claims of lien, judgments, proceedings and causes of action, arising out of or in any way connected with the performance of such work, unless caused by the negligent or willful act or omission of the indemnified person, its tenants, subtenants, agents, contractors or employees.

7.7.3 The Owners acknowledge and agree that incidental encroachments upon the Common Elements and/or neighboring parcels may occur as a result of the use of ladders, scaffolds, store front barricades and similar facilities in connection with the construction, maintenance, repair, replacement or expansion of buildings, signs and Common Elements improvements located in the Common Interest Community, all of which are permitted hereunder so long as all activities requiring the use of such facilities are expeditiously pursued to completion and are performed in such a manner as to minimize any interference with use of the improved Common Elements and with the normal operation of any business in the Common Interest Community.

Section 7.8 Restrictions on Use. No use or operation will be made, conducted, or permitted on or with respect to all or any part of the Common Interest Community, which use or operation is obnoxious to or out of harmony with all other Buildings in the Common Interest Community or which is not allowed by the Town of Carbondale zoning laws then applicable to the Common Interest Community. In addition, no part of the Common Interest Community shall be used or operated for the following purposes or in a manner to produce or cause the following:

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7.8.1 Any public or private nuisance;

7.8.2 Any movie theater, arcade, book store, computer store, software store or video store whose primary source of revenue is derived from the exhibition, display or rental of x-rated or adult only movies or motion pictures;

7.8.3 Any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness, or loudness;

7.8.4 The storage of any noxious, toxic, caustic, or corrosive fuel or gas;

7.8.5 Any unusual fire, explosion, or other damaging or dangerous hazard, including the storage, display or sale of explosives or fireworks; and

7.8.6 Any drilling for a removal of subsurface substances.

Section 7.9 Declarant's Use. Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for Declarant, its employees, agents, and contractors, to perform such reasonable activities, and to maintain upon portions of the Lots such facilities as Declarant deems reasonably necessary or incidental to the construction and sale of Lots, or any Condominium Unit within a Building and development and construction of Improvements, specifically including, without limiting the generality of the foregoing, maintaining management offices, construction offices, signs, model units and sales offices, in such numbers, of such sizes and at such locations as it determines in its reasonable discretion. Notwithstanding the foregoing, Declarant shall not perform any activity or maintain any facility on any portion of the Lot in such a way as to unreasonably interfere with or disturb any Owner, or to unreasonably interfere with the use, enjoyment or access of such Owner, his family members, guests or invitees of and to his Lot or Unit and to a public right-of-way.

Section 7.10 Household Pets. No animals, livestock, pigs, birds, poultry, reptiles or insects of any kind shall be raised, bred, kept or boarded in or on the Lots; provided, however, that the Owners of each Residential Unit within a Building may keep not more than two (2) dogs and a total of three (3) domestic animals including, without limitation, dogs, cats, or other domestic animals which are bona fide household pets, so long as such pets are not kept for any commercial purpose and are not kept in such manner as to create a nuisance to any resident of any other Unit and except for the operation of a retail pet shop from a Commercial Unit. An Owner's right to keep household pets shall be coupled with the responsibility to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets, and any such costs and damages shall be subject to all of the Association's rights with respect to the collection and enforcement of assessments as provided in Article 5 hereof.

Section 7.11 Temporary Structures; Unsightly Conditions. Except as hereinafter provided, no structure of a temporary character, including, but not limited to, a house trailer, tent, shack, storage shed, or outbuilding shall be placed or erected upon any Lot; provided, however, that during the actual construction, alteration, repair or remodeling of a Building or other Improvements, necessary temporary structures for the supervision and administration of such construction or for storage of materials may be erected and maintained by the person doing such work. The work of constructing, altering or remodeling any Building or other Improvements shall be prosecuted diligently from the commencement thereof until the completion thereof. Further, no unsightly conditions, structures, facilities, equipment or objects shall be so located on any Lot as to be visible from a public street.

Section 7.12 Miscellaneous Improvements.

7.12.1 No clothes lines or chain-linked dog runs shall be located on any Lot.

7.12.2 No satellite dishes shall be permitted except with the prior written approval of the Architectural Review Committee and in accordance with criteria or requirements which may be met, from time to time, by the Architectural Review Committee, the Executive Board, or design guidelines or similar document(s) which affect the Common Interest Community. Such criteria and requirements shall provide that the type of satellite dishes which are to be permitted and the installation thereof shall have the least amount of visibility reasonably possible. Further, except as may otherwise be permitted by the Architectural Review Committee, no exterior radio antenna, television antenna, or audio or visual reception device of any type, shall be placed, erected or maintained on any Building, except below the roof line or inside a residence; provided, however, that any such devices may be erected or installed by the Declarant during their sales or construction in the Common Interest Community.

Section 7.13 Vehicular Parking, Storage and Repairs.

7.13.1 No house trailer, camper, camping trailer, boat trailer, hauling trailer, boat, or accessories thereto, truck (larger than 3/4 ton), self-contained motorized recreational vehicle, or other type of recreational vehicle or equipment, may be parked or stored in the Common Interest Community, except that any such vehicle may be otherwise parked as a temporary expedient for loading, delivery, or emergency. This restriction, however, shall not restrict trucks or other commercial vehicles which are necessary for construction or for the maintenance of Buildings or any Improvements. All deliveries to the Commercial Units shall be completed between the hours of 7 am and 7 pm.

7.13.2 Except as hereinabove provided, no abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked in the Common Interest Community. An "abandoned or inoperable vehicle" shall be defined as any automobile, truck, motorcycle, or



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other similar vehicle, which has not been driven under its own propulsion for a period of more than seventy-two (72) hours, or which does not have an operable propulsion system installed therein; provided, however, that otherwise permitted vehicles parked by owners while on vacation (for a maximum of two (2) Weeks) or during a period of illness shall not be deemed to be abandoned.

7.13.3 In the event the Master Association shall determine that a vehicle is parked or stored in violation of subsections (a) or (b) of this Section 13, then a written notice describing said vehicle shall be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner thereof cannot be reasonably ascertained), and if the vehicle is not removed within a reasonable time thereafter, as determined by the Master Association in its discretion from time to time, the Master Association shall have the right to remove the vehicle at the sole expense of the owner thereof.

7.13.4 No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicles, trailers or boats, may be performed or conducted in the Common Interest Community. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, together with those activities normally incident and necessary to such washing and polishing.

Section 7.14 Restrictions on Trash and Materials. No refuse, garbage, trash, lumber, grass, shrub or tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse or debris of any kind shall be kept, stored, or allowed to accumulate on any Lot, except within an enclosed structure or appropriately screened from view; except that any container containing such materials may be placed outside at proper times for garbage or trash pickup.

Section 7.15 Rules and Regulations. Rules and regulations concerning and governing the Common Interest Community may be adopted, amended or repealed from time to time by the Executive Board, and the Executive Board may establish and enforce penalties for the infraction thereof, including, without limitation, the levying and collecting of fines for the violation of any of such rules and regulations.

Section 7.16 Lots to be Maintained; Hazardous Materials or Chemicals. Each Lot shall at all times be kept in a clean, sightly and wholesome condition by the Owner of the Lot. No trash, litter, junk, boxes, containers, bottles, cans, implements or machinery shall be permitted to remain upon any Lot except as necessary during the period of construction or as provided in Sections 7.13 and 7.14 of this Article. Further, no hazardous materials or chemicals shall at any time be located, kept or stored in, on or at any Lot except such as may be contained in household products normally kept at homes for use of the residents thereof and in such limited quantities so as to not constitute a hazard or danger to person or property.

Section 7.17 Exterior Paint Colors. All exterior paint colors to be used with the Common Interest Community are subject to approval by the Architectural Review Committee and must be harmonious with other exterior colors used within the Common Interest Community. When submittals of colors are made to the Architectural Review Committee, the sample submitted shall be no less than eighteen (18) inches by eighteen (18) inches or such sample may be painted upon the applicable residence in an area not less than such size.

ARTICLE 8

PROPERTY RIGHTS OF OWNERS, MASTER ASSOCIATION AND DECLARANT

Section 8.1 Master Common Area. As declared on the Plat, Declarant has dedicated Tract A, identified as Master Common Area, to the Association for the use and benefit of the Declarant and the Members and guests of the Association; subject to a perpetual non-exclusive easement granted to the Town of Carbondale for public, pedestrian use, and as a drainage and utility easement. Notwithstanding the foregoing, the Master Association, as owner of said Master Common Area, shall have the right to grant a license to individual Lot Owners, Building Associations, or owner(s) of a Unit within a Building, for the exclusive use of a portion of said Master Common Area for commercial purposes associated with a commercial use in an adjacent Building or Unit on the condition that (i) the portion of the Master Common Area so licensed shall be limited in size to an area that will not interfere with the free flow of pedestrian traffic along the length of the Master Common Area; (ii) the use of the licensed area by the licensee shall comply with all applicable laws and regulations; (iii) the licensee shall be solely responsible to maintain and repair the licensed area; and (iv) the licensee shall agree to such other terms and conditions of use as shall be required by the Master Association.

Section 8.2 Recorded Easements. The Property shall be subject to all easements shown from time to time on any recorded Plat or Condominium Map affecting the Common Interest Community, or any portion thereof, and to any other easements of record or of use, including, without limitation, all easements granted, established and reserved pursuant to the Master Declaration.

Section 8.3 Easements for Encroachments. If any portion of the Master Common Area encroaches upon any Lot, or if any Lot, including the improvements thereon, encroaches upon any other Lot or upon any portion of the Master Common Area, or if any roadway or utility improvement encroaches upon any Lot, as a result of the construction of any Building or other improvement, or if any such encroachment shall occur thereafter as a result of settling or shifting of the same, a valid easement for the encroachment and for the maintenance of the same so long as such building or improvement stands, shall exist. In the event any Building or other improvement, any Lot, any adjoining building, or any adjoining Master Common Area, shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the Master Common Area or roadway or utility improvements upon any Lot or upon any portion of the Master Common Area, due to such rebuilding, shall be

permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as such improvement shall stand.

Section 8.4 Maintenance Easement. An easement is hereby granted to the Master Association and to each Lot Owner and Building Association, their respective officers, directors, agents, employees and assigns upon, across, over, in and under the Master Common Area, and a right to make such use of the Master Common Area as may be necessary or appropriate to perform the duties and functions which the Master Association, the Lot Owners, or the individual Building Associations are obligated or permitted to perform pursuant to the separate Building Declarations or this Master Declaration.

Section 8.5 Drainage Easement. An easement is hereby granted to the Master Association, and to each Lot Owner and Building Association, their respective offices, directors, agents, employees, successors and assigns to enter upon, across, over, in and under any portion of the Common Interest Community including, without limitation, the Master Common Area, for the purpose of installing any and all drainage facilities necessary to drain water from any portion of the Project in accordance with the drainage plan for the Project.

Section 8.6 Utility Easement. There are hereby reserved unto the Declarant, so long as the Declarant owns any property described on Exhibit "A" of this Master Declaration, the Master Association and the designees of each (which may include, without limitation, the Town of Carbondale, Colorado and any utility company, its employees, agents, or assigns), for the benefit of the Owners, easements upon, across, over and under the Master Common Areas to the extent reasonably necessary for the purpose of installation, replacement, repair and maintenance of utilities, including but not limited to water, sewer, gas, telephone, electrical, cable or television.

Section 8.7 Declarant's Rights Incident to Construction and Sales. Declarant hereby reserves an easement for ingress and egress over, in, upon, under, and across the Master Common Area and the right to store materials thereon and to make such other use thereof (including, without limitation, construction of one or more temporary structures, trailers or signs) as may be reasonably necessary or incidental to the construction of the Improvements on the Property or other real property owned by Declarant; provided, however, that no such rights shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Lot.

Section 8.8 Emergency Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and all other similar emergency agencies or persons to enter upon the Master Common Areas in the proper performance of their duties.

Section 8.9 Reservation of Easements, Exceptions, and Exclusions. Declarant reserves to itself and hereby grants to the Master Association the concurrent right to establish from time to time, by declaration or otherwise, utility and other easements, permits, or licenses over the Master Common Area, for purposes including, but not limited to, streets, paths, walkways, drainage,

recreation areas, parking areas, conduit installation areas, and to create other reservations, exceptions, and exclusions for the best interest of all the Owners and the Master Association, in order to serve all the Owners within Town Center.

Section 8.10 No Partition of Master Common Area. No Owner of a Lot or a Building Association shall bring any action for partition or division of the Master Common Area. By acceptance of a deed or other instrument of conveyance or assignment, each Owner shall be deemed to have specifically waived such Owner's rights to institute or maintain a partition action or any other action designed to cause a division of the Master Common Area, and this Section may be pleaded as a bar to any such action. Any Owner who shall institute or maintain any such action shall be liable to the Master Association and hereby agrees to reimburse the Master Association for its costs, expenses and reasonable attorneys' fees in defending any such action. Notwithstanding the foregoing, this Section 8.10 shall not apply to the rights of Declarant or other Owners to re-subdivide or condominiumize a Building constructed upon a Lot.

ARTICLE 9 INSURANCE AND FIDELITY BONDS

Section 9.1 Authority to Purchase. All insurance policies relating to the Master Common Area shall be purchased by the Executive Board, or its duly authorized agent. Neither the Executive Board, the Manager nor the Declarant shall be liable for failure to obtain any coverage required by this Article 9 or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverage from reputable insurance companies, or if such coverage is available only at demonstrably unreasonable cost.

Section 9.2 General Insurance Provisions. For all such insurance coverage obtained by the Executive Board, the deductible, if any, on any insurance policy may be treated as a common expense payable from Annual Assessments or Special Assessments.

Section 9.3 Physical Damage Insurance on Master Common Area. The Master Association shall obtain insurance for all insurable Improvements within the Master Common Area in an amount equal to the full replacement value (i.e., 100% of the current "replacement cost" exclusive of land, foundation, excavation, depreciation on personal property, and other items normally excluded from coverage), which shall include all building service equipment and the like, common personal property and supplies, and any fixtures or equipment within the Master Common Area. In addition, such policy shall afford protection against at least the following:

9.3.1 loss or damage by fire and other hazards covered by the standard extended coverage endorsement with the standard "all-risk" endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damage:

9.3.2 such other risks as shall customarily be covered with respect to projects similar in construction, location, and use to Town Center.

In contracting for the insurance coverage obtained pursuant to this Section above, the Executive Board shall be required to make reasonable efforts to secure coverage which provides the following:

9.3.3 a waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to this Master Declaration not to do so.

9.3.4 a provision that any "no other insurance" clause shall expressly exclude individual Owners' policies from its operation so that the physical damage policy or policies purchased by the Executive Board shall be deemed primary coverage and any individual Owners' policies shall be deemed excess coverage.

Section 9.4 Liability Insurance. The Master Association shall obtain a comprehensive policy of public liability insurance (including libel, slander, false arrest, and invasion of privacy coverage) and property damage insurance with such limits as the Executive Board may from time to time determine, insuring each member of the Executive Board, the Manager, each Owner and the employees of the Master Association against any liability to the public or the Owners (and their guests, invitees, tenants, agents and employees) arising in connection with the ownership, operation, maintenance or use of the Master Common Area and/or parking areas and roadways within Town Center and any other areas under the control of the Master Association. Such comprehensive policy of public liability insurance shall include the following:

9.4.1 coverage for construction liability, liability for non-owned and hired automobiles, and, if applicable, bailee's liability, garage keeper's liability, host liquor liability, employer's liability, and such other risks as shall customarily be covered with respect to developments similar to Town Center in construction, location, and use;

9.4.2 a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to an action against another insured; and

9.4.3 a "severability of interest" endorsement which shall preclude the insurer from denying liability coverage to an Owner because of the negligent acts of the Master Association or another Owner.

The Executive Board shall review the coverage limits at least once each year, but, generally, the Executive Board shall carry such amounts of insurance usually required by private institutional mortgage lenders on projects similar to Town Center, and in no event shall such coverage be less than \$1,000,000.00 for all claims for bodily injury or property damage arising out of one occurrence.

Reasonable amounts of "umbrella" liability insurance in excess of the primary limits shall also be obtained in an amount not less than \$3,000,000.00.

Section 9.5 Fidelity Insurance. To the extent obtainable at reasonable cost, fidelity bonds shall be maintained by the Master Association to protect against dishonest acts on the part of its officers, directors, trustees and employees, and on the part of all others who handle or are responsible for handling the funds belonging to or administered by the Master Association. In addition, if responsibility for handling funds is delegated to a Manager, such bonds shall be required for the Manager and its officers, employees, and agents, as applicable. Such fidelity coverage shall name the Master Association as an obligee and shall be written in an amount equal to at least \$500,000.00. Such bonds shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions.

Section 9.6 Provisions Common to Physical Damage Insurance Liability Insurance and Fidelity Insurance. Any insurance coverage obtained by the Master Association under the provisions of this Article 9 above shall be subject to the following provisions and limitations:

9.6.1 the named insured under any such policies shall include Declarant, and the Master Association, as attorney-in-fact for the Owners, or the authorized representative of the Master Association (including any trustee with whom the Master Association may enter into any insurance trust agreement, or any successor trustee, each of which is sometimes referred to in this Master Declaration as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under such policies;

9.6.2 in no event shall the insurance coverage obtained and maintained pursuant to this Article be brought into contribution with insurance purchased by the Owners or their Mortgagees,

9.6.3 the policies shall provide that coverage shall not be prejudiced by (1) any act or neglect of any Owner (including an Owner's family, tenants, servants, agents, invitees, and guests) when such act or neglect is not within the control of the Master Association, or (ii) any act or neglect or failure of the Master Association to comply with any warranty or condition with regard to any portion of the Common Interest Community over which the Master Association has no control 9.6.4. the policies shall contain a waiver of subrogation by the insurer as to any and all claims against Declarant, the Executive Board, the Master Association, the Manager, and any Owner and their respective agents, employees, or tenants, and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured: and

9.6.4 all policies shall be written with a company licensed to do business in Colorado and holding a rating of "A" or better in the financial category as established by

Best's Insurance Reports, if reasonably available, or, if not available, the most nearly equivalent rating.

Section 9.7 Personal Liability Insurance of Officers and Directors. To the extent obtainable at reasonable cost, appropriate officers' and directors' liability insurance shall be obtained by the Master Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and directors on behalf of the Master Association.

Section 9.8 Workmen's Compensation Insurance. The Master Association shall obtain workmen's compensation or similar insurance with respect to its employees, if any, in the amounts and form as may now or hereafter be required by law.

Section 9.9 Other Insurance. The Master Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Master Association's responsibilities and duties.

Section 9.10 Insurance Obtained by Owners. It shall be the responsibility of the individual Owners and Building Associations, at their expense, to make arrangements in regard to title insurance on their Lots upon any resale, for hazard insurance covering the Improvements, personal property and furnishings located on their Lots or within their Building, and for public liability insurance covering their Lots and Building (except to the extent any Owner's Lot is encumbered by an easement conveyed to the Master Association as Master Common Area or to a Building Association as Building Common Area). In addition, each Owner may obtain such other and additional insurance coverage on and in relation to his or her Lot or Building as such Owner concludes to be desirable, provided, however, that none of such insurance coverages obtained by an Owner shall operate to decrease the amount which the Executive Board, on behalf of all Owners, may realize under any policy maintained by the Executive Board or otherwise affect any insurance coverages obtained by the Master Association or cause the diminution or termination of the coverage obtained by the Master Association. Any such insurance obtained by an Owner shall include a waiver of the particular insurance company's right of subrogation against the Master Association and other Owners.

ARTICLE 10 DECLARANT'S RESERVED RIGHTS

Section 10.1 Declarant hereby expressly reserves to itself and its successors and assigns the following described rights, which include development rights and special Declarant rights, any one or more of which rights may be exercised, in the sole and absolute discretion of Declarant, at any time and from time to time during the period commencing upon the recording of this Declaration and ending on the date of termination of such rights established under Section 10.14 below. It is expressly understood that Declarant shall not be obligated to exercise any of these reserved rights.

*Master Declaration of Covenants, Conditions and Restrictions for Town Center Subdivision
CARSAM REALTY TEN, LTD.*

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Except as limited by this Article 10, such reserved rights may be exercised upon or in connection with all or any portion of the Common Interest Community, the Annexable Property and/or the additional unspecified real estate referred to in Section 10.9 below. Such rights may be exercised with respect to different parcels of said real estate at different times, and in connection therewith Declarant hereby states that (i) no assurances are made regarding the boundaries of said different parcels or with respect to the order in which such parcels may be subjected to the exercise of these reserved rights, and (ii) if a particular reserved right is exercised in any portion of the real estate subject to that reserved right, that reserved right is not required to be exercised in all or any portion of the remainder of that real estate.

The reserved rights hereinafter set forth may not be amended, modified, terminated or otherwise altered in any way without the express prior written consent of Declarant. All conveyances of Lots hereafter made, whether by Declarant or otherwise, shall be deemed and construed to reserve to Declarant and/or to grant to Declarant all of the rights reserved by and to Declarant in this Article 10, even though no specific reference to such rights appears in the conveyance instruments. Nothing in this Article 6 shall limit or impair any other rights granted or reserved to Declarant by other provisions of this Declaration or of any Supplemental Declaration.

The following rights are hereby reserved to Declarant and its successors and assigns:

Section 10.2 Completion of Improvements. The right throughout the Common Interest Community to complete Improvements indicated on any Plat, as such plats and Declarations may be amended from time to time and the right to construct and complete Improvements required by the terms of any Subdivision Improvements Agreements with the Town. Furthermore, the right to create, grant and/or use and enjoy additional non-exclusive easements, and to relocate existing platted easements, upon or across any portion of the Common Interest Community, as may be reasonably required for the completion by Declarant of the above-described Improvements or the effective exercise by Declarant of any of the other reserved rights described in this Article 10.

Section 10.3 Sales, Marketing and Management. The right to construct, locate or operate, and to maintain upon, and to remove from, Lots owned by Declarant, and in such number, size and location as may be reasonably required by Declarant in connection with the completion of Improvements, the management of the development, and/or the promotion, marketing, sale or rental of Lots, the following:

10.3.1 Sales offices, management offices, and/or construction offices, and structures containing or relating to the same. Such offices, to the extent they are not situated on a Lot are hereby declared to be personal property of the Declarant and shall in any case be removable by Declarant or its successors or assigns promptly upon the Declarant or its successors or assigns ceasing to be an Owner;

10.3.2 Signs identifying and advertising the Common Interest Community and the Lots therein, or relating to development or construction thereon;

10.3.3 Model residences constructed or to be constructed on Lots;

10.3.4 Parking areas and facilities, and lighting, necessary or desirable in the marketing of the Common Interest Community and the Lots to prospective Owners;

10.3.5 Employees in offices; equipment; vehicles; and marketing and construction materials;

Together with the right to attract, invite or bring prospective purchasers of Lots into the Common Interest Community at all times, and to permit them to use and enjoy the Master Common Areas.

Section 10.4 Merger. The right to merge or consolidate the Common Interest Community with another common interest community of the same form of ownership.

Section 10.5 Declarant Control of Association. The right to appoint or remove any Executive Board member or officer of the Association, as more specifically set forth in Section 3.2 above, but only for and during the "Period of Declarant Control of Association" as defined in said Section 3.2.

Section 10.6 Declarant's Rights to Grant and Create Easements. The right to grant or create temporary easements or to relocate existing easements for (a) access to and egress from or through the Common Interest Community; (b) utilities, including, but not limited to, water sewer and electrical lines; (c) drainage, including, but not limited to, drainage and ditch lateral easements; (d) access across private roads located within the Common Interest Community to the Annexable Property; and (e) other purposes incident to the development and sale of the Common Interest Community (collectively the "Easements").

Section 10.7 Annexation of Additional Properties. The right to annex to the Common Interest Community all or any part of the Annexable Property described on attached Exhibit C. Each Owner of a Lot hereunder hereby grants to Declarant the right to annex all or any part of the Annexable Property to the Common Interest Community and to modify such Owner's Allocated Interests accordingly. Alternatively, Declarant shall have the right and is authorized to develop portions of the Annexable Property and/or to convey portions of the Annexable Property to such third party or parties as Declarant may deem appropriate, prior to and instead of annexing them to the Common Interest Community, whether for purposes consistent with this Declaration or otherwise. Declarant makes no assurances that all or any portion of the Annexable Property will be added to the Common Interest Community and Declarant reserves the right to annex all or any

portion of the Annexable Property to the Common Interest Community in any order it deems appropriate in its sole and absolute discretion.

Section 10.8 Annexation Procedure. The annexation of additional real property to the Common Interest Community shall be accomplished by the recording by Declarant with the Clerk and Recorder of Garfield County of a Supplemental Declaration containing a legal description of the land area to be added to the Common Interest Community and amending this Declaration accordingly, together with a Supplemental Plat thereof. The Supplemental Declaration shall assign an identifying number to each Lot created thereby, and shall reallocate the Allocated Interests of all Lot Owners in the Common Interest Community in accordance with the definition of Allocated Interests contained in this Declaration. The Supplemental Declaration shall also describe any Master Common Areas or Limited Common Areas thereby created, and any Common Elements and any Limited Common Elements thereby created, and in the case of Limited Common Elements, the Supplemental Declaration shall designate the Lot(s) to which each is allocated.

The annexation of the Annexable Property may be accomplished by successive Supplemental Declarations, in no particular or pre-established order, and may provide that property annexed thereby (the "Annexed Property") is phased so that it is made subject to this Declaration at different times. Upon recording of a Supplemental Declaration, the Annexed Property described therein shall be subject to all of the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions set forth in this Declaration, except to the extent specifically stated in the Supplemental Declaration or as modified thereby. Any such Supplemental Declaration may impose on the Annexed Property described therein additional covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions than those set forth in this Declaration, taking into account the unique and particular aspects of the Annexed Property covered thereby and of the proposed development thereof. Furthermore, Declarant shall have the right to reserve in such Supplemental Declaration any development rights that Declarant considers necessary or appropriate, provided that such provision shall not extend the termination date for the exercise of Declarant's development rights as set forth in Section 10.14 below.

Section 10.9 Annexation of Additional Unspecified Real Estate. The right to annex additional, unspecified real estate to the Common Interest Community to the fullest extent permitted by the Act. In the event that Declarant elects to annex any such additional unspecified real estate, Declarant shall annex such property to the Common Interest Community in accordance with the provisions of Section 10.8 above.

Section 10.10 Withdrawal Rights and Procedure. The right at any time and from time to time to withdraw from the Common Interest Community (and any annexations thereto) any Declarant-owned Lot or Lots, or Master Common Areas.

Withdrawal may only be accomplished by the recording by Declarant of an amendment to this Declaration or any Supplemental Declaration affected by the withdrawal, and an amendment to the Plat or any Supplemental Plat affected by the withdrawal. Upon the recording of such amendments, the withdrawn Lots, or Master Common Areas shall no longer be part of the Common Interest Community or subject to this Declaration or any applicable Supplemental Declaration in any way.

Each Declarant-owned Lot, and each Declarant-owned Master Common Area, is hereby described and declared to be a separate portion of real estate that is subject to this right of withdrawal, and Declarant expressly reserves the right to withdraw one or more Declarant-owned Lots and/or all or a portion of any Declarant-owned Master Common Area from the Common Interest Community. Once a Lot has been conveyed to a Lot Owner other than Declarant, that portion of the real estate is no long subject to this right of withdrawal. Likewise, once a Master Common Area has been conveyed to the Association, that portion of the real estate is no longer subject to this right of withdrawal.

The withdrawn property shall be subject to whatever easements, if any, may be reasonably necessary for access or utility service to, or operation or management or use or enjoyment of, the Common Interest Community or any part thereof. Similarly, the owner(s) of the withdrawn property shall have whatever easements, if any, are reasonably necessary for access or utility service to or for use or enjoyment of the withdrawn property over and across the Master Common Areas within the Common Interest Community. At the time any withdrawal of real estate is accomplished, Declarant shall record whatever documents are necessary to establish such reciprocal easements in the County records.

Section 10.11 Effect of Expansion or Contraction. In the event any real property is annexed to the Common Interest Community as provided herein, or if any real property is withdrawn from the Common Interest Community as provided herein, the definitions used in this Declaration shall be automatically expanded or contracted to encompass and refer to the Common Interest Community as expanded or contracted. Master Common Area shall also mean and include all properties located from time to time within the Annexed Property that fall within the definition of Master Common Area contained in this Declaration, less any Master Common Area removed by withdrawal. Every Owner of a Lot in the area annexed to the Common Interest Community shall, by virtue of ownership of such Lot and upon recordation of the Supplemental Declaration annexing such property to the Common Interest Community, be a member of the Association and, except as may be otherwise provided in the Supplemental Declaration, shall be entitled to the same rights and privileges and subject to the same duties and obligations as any other Association Member. Regular Assessments for Lots within the Annexed Property shall commence as of the date of the recording of the Supplemental Declaration and shall be prorated as of such date.

The recording of amendments to the Declaration and Plat, whether in the form of Supplemental Declarations and Supplemental Plats or otherwise, which reallocate the Allocated Interests in the Common Interest Community, shall automatically:

10.11.1 Vest in each existing Lot Owner the reallocated Allocated Interests appurtenant to the Owner's Lot; and

10.11.2 Vest in each existing Mortgagee a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Lot.

Section 10.12 Subdivision of Lots; Construction of Buildings and Condominiumization thereof. The right to subdivide any Declarant-owned Lot located within the Common Interest Community to create additional Lots, subject to the maximum number of Lots and the maximum amount of square footage within all such Lots as set forth in the Recitals to this Declaration; provided, however, that such subdivision is consistent with and accomplished in compliance with Town of Carbondale subdivision requirements. Declarant shall also have and hereby reserves the right to construct Buildings on one or more Lots and thereafter to convert such Building into a Condominium and create Condominium Units therefrom including either Commercial Units, Residential Units or both. Creation of such a Condominium shall be accomplished in accordance with applicable regulations of the Town of Carbondale and the maximum number of Units within any such Condominium shall be determined by such regulations then in effect. Upon creation of such a Condominium, the Building Association for such Building shall become the member of the Association as the owner of the Lot(s) on which the Building is constructed, as provided in Section 3.1, above.

Section 10.13 Transfer of Declarant's Reserved Rights. Any one or more rights created or reserved for the benefit of Declarant under this Article 10 or elsewhere in this Declaration or in any Supplemental Declaration may be transferred to any Person by an instrument describing the right or rights transferred and Recorded in the County. Such instrument shall be executed by the transferor Declarant and the transferee.

Section 10.14 Termination of Declarant's Reserved Rights. With the exception of Declarant's right to appoint or remove Executive Board members and officers of the Association, which is addressed in Section 3.2 above, the rights reserved to Declarant in this Article 10 shall automatically terminate and expire upon the first to occur of (i) the date which is thirty (30) years after the Recording of this Declaration, or (ii) Declarant's relinquishment and surrender of such rights by Recorded instrument. Declarant may from time to time relinquish and surrender one or more but less than all of the reserved rights, in which event the unrelinquished reserved rights shall remain fully valid and effective for the remainder of the term thereof. The Association may extend the time period for exercise of a development right, or reinstate a lapsed development right, subject to whatever terms, conditions and limitations the Association may impose on the subsequent exercise of the development right. The extension or renewal of a development right and any terms, conditions



and limitations shall be included in an amendment executed by Declarant or the owner of the real estate subject to the development right and the Association.

ARTICLE 11 MASTER ASSOCIATION AS ATTORNEY-IN-FACT

Each and every Owner and Building Association hereby irrevocably constitutes and appoints the Master Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place, and stead for the purpose of dealing with the Improvements on the Master Common Area upon damage or destruction as provided in Article 9 or a complete or partial taking as provided in Article 12 below. Acceptance by any grantee of a deed or other instrument of conveyance from Declarant or from any Owner shall constitute appointment of the Master Association as attorney-in-fact as herein provided. As attorney-in-fact, the Master Association shall have full and complete authorization, right, and power to make, execute and deliver any contract, assignment, deed, waiver or other instrument with respect to the interest of any Owner which may be necessary or appropriate to exercise the powers granted to the Master Association as attorney-in-fact.

ARTICLE 12 CONDEMNATION

Section 12.1 Rights of Owners. Whenever all or any part of the Master Common Area shall be taken or conveyed in lieu of and under threat of condemnation by any authority having the power of condemnation or eminent domain, the Executive Board, acting as attorney-in-fact for all Owners under instructions from each Owner, shall be entitled to notice of the taking, and the Master Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

Section 12.2 Partial Condemnation; Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Master Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Master Common Area on which Improvements have been constructed, then, unless within one hundred twenty (120) days after such taking, Declarant and Owners representing at least sixty-seven percent (67%) of the votes in the Master Association shall otherwise agree, the Master Association shall restore or replace such Improvements so taken on the remaining land included in the Master Common Area to the extent lands are available therefor, in accordance with plans approved by the Executive Board and the Architectural Review Committee. If such Improvements are to be repaired or restored, the provisions in Article VII above regarding the disbursement of funds with respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any Improvements on the Master Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such

restoration or replacement is completed, then such award or net funds shall be disbursed to the Master Association and used for such purposes as the Executive Board shall determine.

ARTICLE 13 DAMAGE OR DESTRUCTION

Section 13.1 The Role of the Executive Board. Except as provided in Section 13.6, in the event of damage to or destruction of all or part of any Master Common Area or other property covered by insurance written in the name of the Master Association under Article 9, the Executive Board shall arrange for and supervise the prompt repair and restoration of the damaged property (the property insured by the Master Association pursuant to Article 9 is sometimes referred to as the "Association-Insured Property").

Section 13.2 Estimate of Damages or Destruction. As soon as practicable after an event causing damage to or destruction of any part of the Association-Insured Property, the Executive Board shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction. "Repair and reconstruction" as used in Article 13 shall mean restoring the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction. Such costs may also include professional fees and premiums for such bonds as the Executive Board determines to be necessary.

Section 13.3 Repair and Reconstruction. As soon as practical after the damage occurs and any required estimates have been obtained, the Master Association shall diligently pursue to complete the repair and reconstruction of the damaged or destroyed Association-Insured Property. As attorney-in-fact for the Owners and Building Association, the Master Association may take any and all necessary or appropriate action to effect repair and reconstruction of any damage to the Association-Insured Property, and no consent or other action by any Owner and Building Association shall be necessary. Assessments of the Master Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

Section 13.4 Funds for Repair and Reconstruction. The proceeds received by the Master Association from any hazard insurance carried by the Master Association shall be used for the purpose of repair, replacement, and reconstruction of the Association-Insured Property.

If the proceeds of the Master Association's insurance are insufficient to pay the estimated or actual cost of such repair, replacement, or reconstruction, or if upon completion of such work the insurance proceeds for the payment of such work are insufficient, the Master Association may, pursuant to Article 5, if permitted under the Act, levy, assess, and collect in advance from the Owners and Building Association, without the necessity of a special vote of the Owners and/or Building Associations, a Special Assessment sufficient to provide funds to pay such estimated or

actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair, replacement, or reconstruction.

Section 13.5 Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Master Association and the amounts received from the Special Assessments provided for above, constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners and/or Building Association in proportion to the contributions each Owner and/or Building Association made as Special Assessments, then in equal shares per Lot, first to the Mortgagees, if any, and then to the Owners and/or Building Association, as their interests appear.

Section 13.6 Decision Not to Rebuild the Master Common Area. If Owners or a Building Association representing at least seventy-five percent (75%) of the total allocated votes in the Master Association (other than Declarant) and seventy-five percent (75%) of the Mortgagees holding First Mortgages (based on 1.0 vote for each Mortgage which encumbers a Lot or Building, but not individual Units in a Building), all directly adversely affected Owners, and the Town of Carbondale agree in writing not to repair and reconstruct improvements within the Master Common Area and if no alternative improvements are authorized, then and in that event the damaged property shall be restored to its natural state and maintained as an undeveloped portion of the Master Common Area by the Master Association in a neat and attractive condition. Any remaining insurance proceeds shall be distributed in accordance with the Act.

ARTICLE 14 DURATION OF THESE COVENANTS AND AMENDMENT

Section 14.1 Term. This Master Declaration and any amendments or supplements hereto shall remain in effect from the date of recordation until January 1, 2030. Thereafter this Master Declaration shall be automatically extended for five (5) successive periods of ten (10) years each, unless otherwise terminated or modified as provided below.

Section 14.2 Amendment. Subject in all cases to Sections 14.2.2. below, this Master Declaration, or any provision of it, may be terminated, extended, modified or amended, as to the whole or any portion of the Common Interest Community, upon the affirmative vote of a majority of the Members. Amendments made pursuant to this Section 14.2 shall inure to the benefit of and be binding upon all Owners of any part of the Common Interest Community, their family, tenants, guests, invitees and employees, and their respective heirs, successors and assigns. A certificate of a licensed abstract or title company showing record ownership of the Common Interest Community and a certificate of the secretary of the Master Association documenting votes held and voting rights

exercised on the basis of such ownership records shall be evidence of such ownership and voting representation for the purposes of any such amendment.

14.2.1 Amendment By Declarant. The Declarant may unilaterally amend this Master Declaration if such amendment is (i) necessary to bring any provision into compliance with any applicable governmental statutes, rule, regulation or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) required by an institutional or governmental lender or purchaser or mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan mortgage Corporation, to enable such lender such lender or purchaser to make or purchase mortgage loans on the Units; (iv) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans; or (v) otherwise necessary to satisfy the requirements of any governmental agency. However, any such amendment shall not adversely affect the title to any Lot or Building Association unless the Owner shall consent thereto in writing. So long as the Declarant still owns property described in Exhibit "A" for development as part of the Project, it may unilaterally amend this Master Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

14.2.2 Amendment by Owners. Thereafter and otherwise, this Master Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of sixty-seven percent (67%) of the total votes in the Master Association, and the consent of the Declarant, so long as the Declarant has an option to subject additional property to this Master Declaration.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. To be effective, any amendment must be recorded in the public records of Garfield County, Colorado.

If an Owner consents to any amendment to this Master Declaration or the Master Bylaws, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

14.2.3 Approval of Building Associations. Approval by the Executive Board of the individual Building Associations shall be required for any amendment which affects the rights or privileges of the particular Building or its Owners. Such approval shall not be unreasonably withheld.

14.2.4 Technical Amendment. To the extent allowed by the applicable law, Declarant hereby reserves and is granted the right and power to record, without the approval or consent of any Owner, first mortgage holder, or any other person or entity, technical amendments to this Master Declaration, the Master Articles and/or the Master Bylaws, at any time prior to the conveyance by a Declarant of all of the Property to Owners (other than a Declarant) for the purposes of correcting spelling, grammar, dates, typographical errors, or as may otherwise be necessary to clarify the meaning of any provisions of this Master Declaration.

14.2.5 Special Amendment. To the extent allowed by the Section 38-33.3-217 of the Act, Declarant hereby reserves and is granted the right and power to record, without the approval or consent of any Owner, first mortgage holder, or any other person or entity, special amendments to this Master Declaration.

14.2.6 Recording of Amendments. To be effective, all amendments to or revocation or termination of this Master Declaration must be recorded in the Office of the Clerk and Recorder of the County of Garfield, Colorado, and must contain evidence of the required approval thereof. The recordation of a certificate of the Secretary of the Master Association, certifying that Owners representing the requisite percentage of the Members, and the requisite percentage of first mortgage holders, if required, have consented to the Amendment shall satisfy the requirement of evidence of the required approval.

ARTICLE 15 MISCELLANEOUS AND GENERAL PROVISIONS

Section 15.1 Enforcement of Covenants.

15.1.1 Violations Deemed a Nuisance. Every violation of this Master Declaration or any other of the Master Documents is deemed to be a nuisance and is subject to all the remedies provided for the abatement of the violation. In addition, all public and private remedies allowed at law or equity against anyone in violation of this Master Declaration shall be available.

15.1.2 Compliance. Each Owner or other occupant of any part of the Property shall comply with the provisions of the Master Documents.

15.1.3 Failure to Comply. Failure to comply with the Master Documents shall be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Reasonable notice and an opportunity for a hearing as provided in the Master Bylaws shall be given to the delinquent party prior to commencing any legal proceedings.

15.1.4 Who May Enforce. Any action to enforce the Master Documents may be brought by Declarant, the Executive Board, or the Manager in the name of the Master Association on behalf of the Owners. If, after a written request from an aggrieved Owner, none of the foregoing persons or entities commences an action to enforce the Master Documents, then the aggrieved Owner may bring such an action.

15.1.5 Remedies. In addition to the remedies set forth above in this Article 15, any violation of the Master Documents shall give to the Executive Board, the Manager or Declarant, on behalf of the Owners, the right to enter upon the offending premises of take appropriate peaceful action to abate, remove, modify or replace, at the expense of the offending Owner or occupant, any structure, thing or condition that may exist thereon contrary to the interest and meaning of the Master Documents. If the offense occurs on any easement, walkway, Master Common Area or the like, the cure shall be at the expense of the Owner or other person responsible for the offending condition.

15.1.6 Nonexclusive Remedies. All the remedies set forth in this Master Declaration are cumulative and not exclusive.

15.1.7 No Waiver. The failure of the Executive Board, Declarant, the Manager or any aggrieved Owner to enforce the Master Documents shall not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any other part of the Master Documents at any future time.

15.1.8 No Liability. No member of the Executive Board, nor Declarant, nor the Manager, nor any Owner shall be liable to any other Owner for the failure to enforce any of the Master Documents at any time.

15.1.9 Recovery, of Costs. If legal assistance is obtained to enforce any of the provisions of the Master Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Master Documents or the restraint of violations of the Master Documents, the prevailing party shall be entitled to recover all costs incurred by it in such action, including reasonable attorneys' fees as may be incurred, or if suit is brought, as may be determined by the court. The term "prevailing party" shall include, without limitation, a party who dismisses an action for enforcement of this Master Declaration in exchange for payment of sums allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief subject to the action.

Section 15.2 Resolution of Dispute. If any dispute or question arises between Members or between Members and the Master Association relating to the interpretation, performance or nonperformance, violation or enforcement of the Master Documents, such dispute or violation may

be subject to a hearing and determination by the Executive Board in accordance with the procedures set forth in the Master Bylaws.

Section 15.3 Owners' Acknowledgment. All Owners are subject to the restrictions and guidelines as contained in this Master Declaration and are given notice that (1) their ability to use their privately owned property is limited thereby, and (2) the Executive Board may add, delete, modify, create exceptions to or amend such restrictions and guidelines in accordance herewith.

Each Owner by acceptance of a deed acknowledges and agrees that the use, enjoyment and marketability of his or her property can be affected by this provision and that the restrictions, guidelines and rules may change from time to time.

Section 15.4 Supplemental to Act. The provisions of this Master Declaration shall be addition and supplemental to the Act, as it may be amended from time to time, and to all other applicable provisions of law.

Section 15.5 Severability. The provisions of this Master Declaration shall be deemed to be independent and severable, and the invalidity of any one or more of the provisions hereof, or any portion thereof, by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which other provisions shall remain in full force and effect.

Section 15.6 Number and Gender. Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include all genders.

Section 15.7 Captions. The captions to the Articles and Sections and the table of contents at the beginning of this Master Declaration are inserted herein only as a matter of convenience and for reference, and are in no way to be construed to define, limit or otherwise describe the scope of this Master Declaration or the intent of any provision hereof.

Section 15.8 Conflicts in Documents. In case of any conflict between this Master Declaration and the Master Articles or Master Bylaws, this Master Declaration shall control. In case of any conflict between the Master Articles and Master Bylaws, the Mater Articles shall control.

IN WITNESS WHEREOF, the undersigned, being Declarant herein, has hereunto set its hand and seal this 21st day of March, 2003.

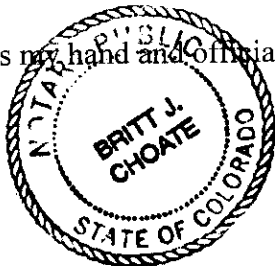
CARSAM REALTY TEN, LTD.,
a Texas limited partnership
By: CSR Carbondale, LLC,
a Texas limited liability company,
its General Partner

By: William G. Smith, Jr.
William G. Smith, Jr., Co-Chairman

STATE OF COLORADO)
COUNTY OF Garfield) ss.

The above and foregoing document was acknowledged before me this 21st day of March, 2003, by William G. Smith, Jr., as Co-Chairman of CSR Carbondale, LLC, a Texas limited liability company, General Partner of CARSAM REALTY TEN, LTD., a Texas limited partnership.

Witness my hand and official



Britt J. Choate
Notary Public

My commission expires: 818 Colorado Avenue
My address is: Glenwood Springs, CO 81601
My Commission Expires June 13, 2005

623533 03/25/2003 01:47P B1450 P79 M ALSDORF
49 of 52 R 261.00 D 0.00 GARFIELD COUNTY CO

EXHIBIT A

**Town Center Subdivision, Filing No. 1
Legal Description of Common Interest Community**

Lots 17, 18, 19, 20, 21, and 22, and Tract A, Town Center Subdivision, Filing No. 1, according to the Plat thereof recorded March 25, 2003, under Reception No. 623529.

EXHIBIT B

TOWN CENTER SUBDIVISION, FILING NO. 1
Allocated Interests

Lot Number	Square Footage	Allocated Interest	Percent Vote
17	8,125	21%	21%
18	9,629	25%	25%
19	10,905	29%	29%
20	3,383	9%	9%
21	3,055	8%	8%
22	3,062	8%	8%
TOTALS:	38,159	100%	100%

EXHIBIT C

**Town Center Subdivision, Filing No. 1
Annexable Property**

A TRACT OF LAND BEING IDENTIFIED AS FUTURE FILING NO. 2 ACCORDING TO THE FINAL PLAT OF TOWN CENTER SUBDIVISION, FILING NO. 1 RECORDED AS RECEPTION NO. 623529 OF THE GARFIELD COUNTY RECORDS; SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF TRACT A OF SAID FINAL PLAT OF TOWN CENTER SUBDIVISION, FILING NO. 1; THENCE N 89°57'00" W ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF THE ALLEY OF SAID PLAT 190.00 FEET; THENCE LEAVING SAID ALLEY RIGHT-OF-WAY N 00°03'00" E ALONG THE EASTERLY RIGHT-OF-WAY LINE OF 6TH STREET 251.32 FEET; THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY N 89°35'00" E ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF COLORADO AVENUE 190.01 FEET; THENCE LEAVING SAID SOUTHERLY RIGHT-OF-WAY S 00°03'00" W ALONG THE WEST LINE OF SAID TRACT A 252.87 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINING 47,899 SQ. FT. OR 1.100 ACRES, MORE OR LESS.

EXHIBIT D

**Town Center Subdivision, Filing No. 1
Recorded Easements and Other Matters**

RIGHT OF PROPRIETOR OF A VEIN OR LODGE TO EXTRACT AND REMOVE HIS ORE THEREFROM SHOULD THE SAME BE FOUND TO PENETRATE OR INTERSECT THE PREMISES AS RESERVED IN UNITED STATES PATENT RECORDED MARCH 27, 1892, IN BOOK 12 AT PAGE 124 AND RECORDED MAY 23, 1892 IN BOOK 12 AT PAGE 160 AND RECORDED DECEMBER 29, 1911 IN BOOK 71 AT PAGE 524.

RIGHT OF WAY FOR DITCHES OR CANALS CONSTRUCTED BY THE AUTHORITY OF THE UNITED STATES AS RESERVED IN UNITED STATES PATENT RECORDED DECEMBER 29, 1911, IN BOOK 71 AT PAGE 524.

EASEMENTS, RIGHTS OF WAY AND OTHER MATTERS AS SHOWN ON THE FINAL PLAT OF TOWN CENTER SUBDIVISION, FILING NO. 1, RECORDED MARCH 25, 2003 UNDER RECEPTION NO. 623529.