

DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT is made this 21st day of March, 2003, by CARSAM REALTY TEN, LTD., a Texas limited partnership ("Owner") in favor of and for the benefit of the TOWN OF CARBONDALE, COLORADO ("Town").

RECITALS

A. Owner is the owner of that certain real property located within the Town which is described on Exhibit A attached hereto and incorporated herein by this reference (the "Restricted Property").

B. Owner is also the owner and developer of that certain subdivision located within the Town known as Town Center as described and approved by the Town in Ordinance No. 9, Series of 2003, which is recorded in the records of Garfield County, Colorado, on March 25, 20003, at Reception No. 623528.

C. In accordance with the Subdivision Improvements Agreement for Town Center Subdivision, Filing No. 1, between the developer and the Town which is recorded March 25, 2003, at Reception No. 623531 (the "SIA"), Owner desires to impose the Restrictive Covenant as hereinafter set forth upon the Restricted Property, in order to secure Owner's obligations to provide deed restricted community housing related to Town Center.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) in hand paid, the receipt and sufficiency of which is hereby acknowledged, and other good and valuable consideration, Owner agrees as follows:

1. Owner hereby declares that the Restricted Property shall not be sold, conveyed, or otherwise transferred, except as provided in this Declaration, until such time as Owner has satisfied its obligations to provide deed restricted community housing relating to Town Center as expressly set forth in paragraph 7 of the SIA, and this Restrictive Covenant is thereafter released and extinguished as hereinafter provided.

2. For purposes of this Declaration, Owner may grant a deed of trust, mortgage, or other security interest in the Restricted Property, so long as the same is junior to this Declaration and would not, upon foreclosure of such security instrument, extinguish or modify the within Restrictive Covenant upon the Restricted Property. Owner shall not grant any such security interest in the Restricted Property without the Town's written consent, which shall be granted in the circumstances set forth in this paragraph.

3. This Declaration and the Restrictive Covenant granted herein shall be deemed a covenant which runs with and burdens the Restricted Property for the benefit of the Town, and shall be specifically enforceable by the Town. In the event the Town should ever commence litigation or other proceeding to enforce the terms of this Declaration, and if the Owner's breach of this

373
151

Return to:
Lawrence R. Green
Balcomb & Green, P.C.
P.O. Drawer 790
Glenwood Springs, CO 81602

Declaration is established in such proceeding, then the Owner shall be responsible to pay the Town's attorney's fees, expenses, and other court costs incurred in such proceeding.

This Declaration and the Restrictive Covenant herein granted may be released and extinguished only by a written instrument, signed by the Owner and the Town, notarized as required for the execution of deeds, specifically referring to this Declaration as it is recorded in the records of Garfield County, Colorado, stating that the purposes of this Restrictive Covenant have been satisfied or that other security acceptable to the Town has been provided by the Owner, and that this Declaration and Restrictive Covenant is therefore released and fully discharged. Upon its execution, such instrument shall be recorded in the records of Garfield County, Colorado, and from and after such recording, this Declaration of Restrictive Covenant shall be fully extinguished and discharged and shall no longer be considered a burden or encumbrance upon the Restricted Property.

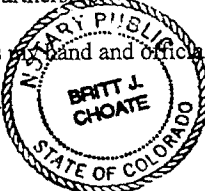
IN WITNESS WHEREOF, the Owner has executed this Declaration of Restrictive Covenant on the day and year first above written.

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)
) ss.
COUNTY OF Garfield)

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 seal

BRITT J. CHOATE
STATE OF COLORADO

Britt J. Choate
Notary Public

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

623534 03/25/2003 01:52P B1450 P85 M RLSDRF
3 of 3 P 16.00 D 0.00 GARFIELD COUNTY CO

EXHIBIT "A"

To Declaration of Restrictive Covenant dated March 21, 2003 between
CARSAM REALTY TEN, LTD. and the Town of Carbondale

PARCEL 1, AS DEPICTED ON THE PLAT OF THE AMERICAN TREE AND CEMENT SUBDIVISION
EXEMPTION, RECORDED IN THE RECORDS OF GARFIELD COUNTY, COLORADO ON JULY 22,
1997 AS RECEPTION NO. 511304.

ALSO DESCRIBED AS:

A TRACT OF LAND BEING A PORTION OF THAT LAND DESCRIBED IN DEEDS FROM THE DENVER
AND RIO GRANDE WESTERN RAILROAD COMPANY TO SOUTHERN PACIFIC TRANSPORTATION
COMPANY RECORDED DECEMBER 29, 1993 IN BOOK 888, PAGE 38, AND RECORDED DECEMBER
29, 1993 IN BOOK 888, PAGE 30, BOTH RECORDS OF SAID COUNTY, SITUATED IN LOT 11
OF SECTION 34, TOWNSHIP 7 SOUTH, RANGE 88 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
TOWN OF CARBONDALE, GARFIELD COUNTY, COLORADO, AND BEING MORE PARTICULARLY
DESCRIBED AS FOLLOWS

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHWESTERLY RIGHT OF WAY LINE
OF SAID SOUTHERN PACIFIC TRANSPORTATION COMPANY RIGHT OF WAY WITH THE NORTHERLY
PROLONGATION OF THE WESTERLY RIGHT OF WAY LINE OF FOURTH STREET IN SAID TOWN OF
CARBONDALE WHENCE THE STREET CENTERLINE MONUMENT AT THE INTERSECTION OF FOURTH
STREET AND EUCLID AVENUE IN SAID TOWN OF CARBONDALE BEARS S 01 DEGREES 47'54" E
1162.57 FEET, SAID POINT BEING THE MOST SOUTHERLY CORNER OF THE 1.624 ACRE
PARCEL OF LAND AS DESCRIBED IN DEED DATED AUGUST 16, 1995, FROM SOUTHERN
PACIFIC TRANSPORTATION COMPANY TO TOWN OF CARBONDALE, RECORDED AUGUST 22, 1995,
IN BOOK 950, PAGE 861, RECORDS OF SAID COUNTY;

THENCE N 00 DEGREES 03'00" E ALONG THE EASTERLY LINE OF SAID 1.624 ACRE PARCEL
OF LAND, 141.27 FEET TO A POINT ON A LINE WHICH LIES 25.00 FEET SOUTHWESTERLY
OF AND PARALLEL TO THE CENTERLINE OF THE MAIN TRACK OF SAID SOUTHERN PACIFIC
TRANSPORTATION COMPANY;

THENCE S 62 DEGREES 10'51" E ALONG SAID PARALLEL LINE FOR A DISTANCE OF 354.69
FEET TO THE MOST NORTHERLY CORNER OF THE 1.263 ACRE PARCEL OF LAND AS DESCRIBED
IN DEED DATED JUNE 16, 1995, FROM SOUTHERN PACIFIC TRANSPORTATION COMPANY TO
AMERICAN TREE AND CEMENT INC., RECORDED JUNE 30, 1995, IN BOOK 945, PAGE 464,
RECORDS OF SAID COUNTY;

THENCE S 07 DEGREES 12'57" W ALONG THE WESTERLY LINE OF SAID 1.263 ACRE PARCEL
OF LAND, 133.54 FEET TO SAID SOUTHWESTERLY RIGHT OF WAY LINE OF SAID RAILROAD;

THENCE N 62 DEGREES 10'51" W 335.87 FEET ALONG SAID SOUTHWESTERLY RIGHT OF WAY
LINE TO THE POINT OF BEGINNING.

EXCEPTING FROM THE ABOVE DESCRIBED PROPERTY THE FOLLOWING PROPERTY CONVEYED TO
THE TOWN OF CARBONDALE FOR PURPOSES OF THE EXTENSION OF FOURTH STREET:
FOURTH STREET EXTENDED

A TRACT OF LAND SITUATED IN LOT 11 OF SECTION 34, TOWNSHIP 7 S, RANGE 88 WEST
OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF CARBONDALE, GARFIELD COUNTY, COLORADO
AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT A POINT ON THE WESTERLY RIGHT OF WAY LINE OF FOURTH STREET IN SAID
TOWN OF CARBONDALE, WHENCE THE STREET CENTERLINE MONUMENT LOCATED AT THE
INTERSECTION OF FOURTH STREET AND EUCLID AVENUE IN SAID TOWN OF CARBONDALE
BEARS S 01 DEGREES 47' 54" E 1162.57 FEET

THENCE N 00 DEGREES 03' 00" E 141.27 FEET ALONG THE WESTERLY RIGHT OF WAY LINE
OF SAID FOURTH STREET EXTENDED;

THENCE S 62 DEGREES 10' 51" E 84.78 FEET TO A POINT ON THE EASTERLY RIGHT OF
WAY LINE OF SAID FOURTH STREET EXTENDED;

THENCE S 00 DEGREES 93' 00" W. 141.27 FEET ALONG SAID EASTERLY RIGHT OF WAY
LINE

THENCE N 62 DEGREES 10' 51" W. 84.76 FEET TO THE POINT OF BEGINNING.

AND ALSO EXCEPTING THE FOLLOWING PROPERTY CONVEYED TO THE TOWN OF CARBONDALE
FOR PURPOSES OF ELIMINATING THE ENCROACHMENT OF COLORADO AVENUE:

LEGAL DESCRIPTION - ASPHALT ENCROACHMENT (PARCEL 1)

A TRACT OF LAND SITUATED IN PARCEL 1, AMERICAN TREE AND CEMENT SUBDIVISION
EXEMPTION, TOWN OF CARBONDALE, GARFIELD COUNTY COLORADO, AND BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL 1;

THENCE N 61 DEGREES 10' 51" W 23.15 FEET ALONG THE SOUTHERLY BOUNDARY LINE OF
SAID PARCEL 1;

THENCE S 72 DEGREES 00' 00" E 22.06 FEET TO A POINT ON THE EASTERLY BOUNDARY
LINE OF SAID PARCEL 1;

THENCE S 07 DEGREES 12' 57" W 4.02 FEET ALONG SAID EASTERLY BOUNDARY LINE TO
THE POINT OF BEGINNING.

COUNTY OF GARFIELD
STATE OF COLORADO