

**DECLARATION
OF
PROTECTIVE COVENANTS
FOR
OVERLOOK
AT
MT. CRESTED BUTTE**

Prepared by:

David Leinsdorf, Attorney
215 Elk Avenue
Crested Butte, Colorado 81224
(303) 349-6111

DECLARATION OF PROTECTIVE COVENANTS

FOR

OVERLOOK AT CRESTED BUTTE

THIS DECLARATION is made with an effective date of the 29th day of December, 1993, by Overlook at Mt. Crested Butte Limited Liability Company, a Colorado limited liability company ("Declarant").

ARTICLE 1.

STATEMENT OF PURPOSE

Section 1.1 - Ownership of Property. Declarant is the owner of the real property ("Property") situate in the Town of Mt. Crested Butte, Gunnison County, Colorado as set forth on attached Exhibit A which is incorporated herein by reference.

Section 1.2 - Subdivision of Property. The Property shall be subdivided and platted as "Overlook at Mt. Crested Butte".

Section 1.3 - Declaration of Covenants. Declarant hereby makes, declares and establishes the covenants, restrictions and easements set forth herein which shall affect the Property. This Declaration of Protective Covenants shall run with the Property and shall be binding upon all persons and entities having any right, title or interest in and to the Property or any part thereof, their heirs, successors and assigns and their tenants, employees, guests and invitees and shall inure to and be for the benefit of each Owner of a Lot or Unit within Overlook at Mt. Crested Butte.

Section 1.4 - Common Interest Community. Declaration further declares the Property to be a Common Interest Community in accordance with the Colorado Common Interest Ownership Act.

Section 1.5 - Statement of Purpose. This Declaration of Protective Covenants is imposed for the benefit of all Owners and future owners of Lots located within Overlook at Mt. Crested Butte and to provide for the preservation of values of Overlook at Mt. Crested Butte, and to preserve the covenants, easements, restrictions, assessments and liens hereafter set forth, all of which are for the benefit of the Property and the Owners of Lots.

ARTICLE 2.

DEFINITIONS

The following terms and words shall have the definitions set forth in this Article 2:

Section 2.1 - "Assessments" shall mean regular monthly, quarterly or annual assessments, special assessments or default assessments levied pursuant to the Association Documents to provide funds for the Association.

Section 2.2 - "Association" shall mean Overlook at Mt. Crested Butte Association, Inc., a Colorado non-profit corporation, or any successor thereof charged with the powers, duties and obligations set forth herein.

Section 2.3 - "Association Documents" shall mean this Declaration of Protective Covenants, the Plat, the Articles of Incorporation and Bylaws of the Association, the Design Guidelines and any procedures, rules, regulations or policies adopted thereunder by the Association or the Design Review Board.

Section 2.4 - "Board of Directors" or "Board" shall mean the Board of Directors of the Association duly elected and acting according to the Articles of Incorporation and Bylaws of the Association. The Board of Directors is also defined as an Executive Board by Colorado Common Interest Ownership Act.

Section 2.5 - "Building" shall mean anything constructed or erected with a fixed location on the ground and having a roof supported by columns or walls.

Section 2.6 - "Building Envelope" shall mean the area within a Lot shown on the Plat where a building or other improvement shall be located, subject to the prior written approval of the Design Review Board. The location of a Building Envelope shall be changed only after approval in writing by the Town and by the Declarant or the Design Review Board.

Section 2.7 - "Colorado Common Interest Ownership Act" shall mean the "Colorado Common Interest Ownership Act of the State of Colorado, Section 38-33.3-101 et. seq., Colorado Revised Statutes".

Section 2.8 - "Combined Homesite Lots" shall mean two or more contiguous Homesite Lots (Lots 1-20) which have been permanently combined by replat approved by the Town and the Design Review Board into one building site pursuant to Section 3.5 of this Declaration. The Owner of Combined Homesite Lots shall pay Association assessments and vote in the Association as if such Lots had not been combined.

Section 2.9 - "Common Interest Community" shall have the definition set forth in the Colorado Common Interest Ownership Act.

Section 2.10 - "Declarant" shall mean Overlook at Mt. Crested Butte Limited Liability Company, a Colorado limited liability company, its representatives, successors and assigns.

Section 2.11 - "Declaration" or "Declaration of Protective Covenants" shall mean this Declaration of Protective Covenants for Overlook at Mt. Crested Butte and as this Declaration may be hereafter amended, modified or extended.

Section 2.12 - "Design Guidelines" shall mean those guidelines, rules and regulations published from time to time by the Design Review Board upon approval by the Town. All Design Guidelines shall be consistent with the provisions of this Declaration.

Section 2.13 - "Design Review Board" shall mean the Board of Directors of the Association.

Section 2.14 - "Garage" shall mean an accessory building or an accessory portion of a Single Family Residence designed for the storage of one or more motor vehicles and for incidental uses.

Section 2.15 - "Guest House" shall mean a dwelling containing at least 800 square feet and no more than 1,200 square feet of Living Area in a detached Building or in a Garage Building. No Guest House shall be constructed prior to construction of a Single Family Residence on the same Lot. Such Guest House shall at all times be owned by the Owner of the Lot upon which it is situate and shall not be rented or leased separate and apart from a rental or lease of the entire Lot.

Section 2.16 - "Home Occupation" shall mean a use conducted entirely within a dwelling which is incidental and secondary to the use of the dwelling for dwelling purposes and which does not change the residential character thereof. Any noise or activity related to such incidental and secondary use of the dwelling shall not interfere with the quiet and dignity of the neighborhood and no persons other than the primary dwelling occupants and one employee shall be employed in such use.

Section 2.17 - "Improvements" shall mean all buildings, structures, parking areas, loading areas, fences, walls, driveways, signs, changes in exterior color or shape, excavation, site work, grading, landscaping, road construction, utilities and any other construction or facility installed on or under a Lot or other part of the Property.

Section 2.18 - "Landscaping" shall mean planted areas and plant materials, including trees, shrubs, lawns, flower beds and ground cover.

Section 2.19 - "Living Area" shall mean the floor area having a ceiling height in excess of five feet of a residence designed for interior occupancy and use by the inhabitants, but excluding basements, garages, porches, decks, patios and breezeways.

Section 2.20 - "Lot" shall mean the following as shown on the Plat of Overlook at Mt. Crested Butte Subdivision as originally filed and/or as amended:

A. Initial Filing

- (1) Homesite Lots (1-20)
- (2) Estate Lots (A, B, C, D, E and F)

B. Subsequent Filing(s)

(1) Additional land may, at Declarant's option, be platted into Lots and made part of Overlook at Mt. Crested Butte on condition that such additional land shall be contiguous, at least in part, to Overlook at Mt. Crested Butte.

(2) The owner of each Lot added to the Subdivision in a subsequent filing shall have one vote in the Association and shall be responsible for paying a fraction of the total assessment levied on all Lots in which the numerator is one (1) and the denominator is the total number of Lots in the Subdivision.

Section 2.21 - "Maintenance Fund" shall mean the fund created by assessments and fees levied pursuant to this Declaration to provide the Association with funds to carry out its duties and exercise its powers hereunder.

Section 2.22 - "Member" shall mean any person holding membership in the Association.

Section 2.23 - "Mortgage" shall mean any mortgage, deed of trust or other document pledging a Lot or interest therein as security for the payment of any indebtedness. "**First Mortgage**" shall mean any mortgage which is not subject to or junior to any lien or encumbrance, except liens for taxes and other liens which are given priority by statute.

Section 2.24 - "Open Space" shall mean all of a Lot excepting the Building Envelope. Although Open Space is for the Lot Owner's exclusive use, Improvements are prohibited, except for Landscaping, driveways and parking areas approved by the Design Review Board.

Section 2.25 - "Owner" shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot or Unit; provided, however, that prior to the first conveyance of any Lot or Unit after the recording of this Declaration, Owner shall mean Declarant unless Declarant has designated a successor in ownership of fee simple title to exercise the rights, duties and obligations of ownership.

Section 2.26 - "Person" shall mean a person, corporation, partnership, joint venture, association, fiduciary or any other type of entity or designation by which title to any Lot or Unit is held.

Section 2.27 - "Plat" shall mean the Plat of Overlook at Mt. Crested Butte affecting the Property dedicated by Declarant as filed in the records of Gunnison County, Colorado, and as such Plat may be amended, enlarged or revised from time to time.

Section 2.28 - "Property" shall mean and include the Property described on attached Exhibit A which is subject to this Declaration. In the event that Overlook at Mt. Crested Butte is enlarged through one or more subsequent filings as provided in this Declaration, "Property" shall include all land made subject to this Declaration.

Section 2.29 - "Public Area" shall mean that part of the Property set aside for the public uses listed on the Plat. Developer shall convey to the Town title to the Public Areas.

Section 2.30 - "Single Family Residence" shall mean a detached building designed for or used as a dwelling exclusively by one family as an independent housekeeping unit containing no less than 2,500 square feet of Living Area. Each Single-Family Residence may include one apartment dwelling located within the Single-Family Residence building or within a detached garage building on condition that such apartment dwelling shall contain no more than 1,000 square feet of Living Area, which shall be allowed in addition to the Living Area of the main Single-Family Residence. Such apartment dwelling shall not be rented except to a caretaker for the Single Family Residence.

Section 2.31 - "Subdivision" shall mean all of the Property subdivided and platted by the Plat, including amendments thereto, filed in the records of Gunnison County, Colorado pertaining to Overlook at Mt. Crested Butte.

Section 2.32 - "Town" shall mean the Town of Mt. Crested Butte, -Colorado.

ARTICLE 3.

USE OF LOTS

Section 3.1 - Use of Homesite Lots (1-20). Homesite Lots shall be used only for the following:

A. One Single Family Residence containing Living Area of no more than 8,000 square feet or 25% of the Lot area, whichever is less; and

B. One Home Occupation.

Section 3.2 - Use of Estate Lots (A-F). Estate Lots shall be used only for the following:

A. One Single Family Residence containing Living Area of no more than 12,000 square feet or 25% of the Lot area, whichever is less; and

B. One Home Occupation; and

C. One Guest House.

Section 3.3 - Use of Combined Homesite Lots. Combined Homesite Lots shall be used only for the following:

A. For Combined Homesite Lots of 1.5 acres, or more, one Single Family Residence containing Living Area of no more than 10,000 square feet or 25% of the Lot area, whichever is less; and

B. For Combined Homesite Lots of less than 1.5 acres, one Single Family Residence containing Living Area of no more than 8,000 square feet or 25% of the Lot area, whichever is less; and

C. One Home Occupation; and

D. One Guest House.

Section 3.4 - Partition of Lots. No Lot may be partitioned, separated or subdivided from any other part thereof.

Section 3.5 - Building Envelope. No Building or other improvement of any kind shall be constructed on a Lot except within the Building Envelope. In the event that an Owner owns two adjoining Lots and desires to change the location of the Building Envelopes for both Lots to reflect a single Building Envelope for the combined usage of both Lots, the Owner may do so subject to compliance with the following conditions:

A. By appropriate land covenant or other recorded document, the Owner shall commit, agree and covenant that both

Lots shall be treated as a single Lot for the purpose of compliance with the Declaration of Protective Covenants, except as to Association voting and assessments, and shall thereafter remain in common ownership by the same Owner.

B. The Owner shall apply for and obtain written approval from the Design Review Board for the change of the Building Envelope.

C. The Owner shall apply for and obtain written approval from the Town for a replat changing the Building Envelope.

Section 3.6 - Approval by Design Review Board and Town. No Building or Improvement shall be constructed on any Lot nor shall any Building or Improvement be altered or demolished except as approved by the Design Review Board and the Town.

Section 3.7 - Design Guidelines. All Buildings and Improvements shall comply with the terms, conditions, definitions and objectives as set forth in the Design Guidelines.

Section 3.8 - Building Envelope. All Buildings shall be located entirely within the Building Envelope of the Lot as designated on the Plat, except for Buildings on Combined Homesite Lots, which may be located in a revised Building Envelope approved by the Town and the Design Review Board.

Section 3.9 - Animals. No animals shall be kept or maintained within the Subdivision except usual domestic household pets. Such household pets shall be confined to the Owner's Lot or Unit or controlled on a leash. No barking or vicious dogs shall be permitted within the Subdivision.

Section 3.10 - Parking and Storage. Parking of vehicles on a Lot is permitted only within parking spaces constructed pursuant to approval by the Design Review Board, except that vehicles may be parked in other areas while loading and unloading. Except for automobiles, station-wagons, jeep-type vehicles and bicycles, all other vehicles and all implements, including without limitation, trailers of all types, trucks, boats, tractors, campers not mounted on pickup trucks, snow removal equipment, motorcycles, snowmobiles, all-terrain vehicles, motor homes or other recreational vehicles, inoperable vehicles and maintenance equipment shall be parked or stored only in an approved enclosed structure. No more than two motor vehicles shall be stored outside on any Lot. No abandoned vehicles shall be stored outside on any Lot.

Section 3.11 - Hazardous Activities. No activities shall be conducted on any Lot and no Improvements shall be constructed on any Lot which are or might be unsafe or hazardous to any

person or property. Without limiting the generality of the foregoing, no firearms, archery equipment, or fireworks shall be discharged within the Subdivision. No open fires shall be lighted or permitted except in a contained pit or other barbecue unit while attended and in use for cooking purposes or except in a safe and well-designed interior fireplace or stove.

Section 3.12 - Occupancy. No portion of any Lot shall be used for residence, living, or sleeping purposes other than rooms designed for such purposes in a completed structure.

Section 3.13 - Mining and Drilling. No Lot shall be used for the purpose of mining, quarrying, drilling, boring, exploring for, or removing water, oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, or earth.

Section 3.14 - Signs. No signs or advertising devices of any nature shall be erected or maintained on any Lot except as necessary to identify the name or ownership of the particular Lot and its address, or as necessary or desirable to give directions, advise of rules and regulations, or caution or warn of danger, to advertise a Lot for sale, or as may otherwise be necessitated by law. Any signs which are permitted under the foregoing restrictions shall be erected or maintained only with prior written approval by the Design Review Board. Approval shall be given only if such signs are of attractive design and are as small in size as is reasonably possible. Signs shall be placed or located as directed and approved by the Design Review Board and the Town Zoning Administrator.

Section 3.15 - Light, Sounds and Odors. All exterior lighting shall be designed and directed as approved by the Design Review Board. No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare. All exterior lights shall be shielded to reduce to the extent practicable visibility of such exterior lights from adjacent property. No mercury vapor lights shall be permitted. Other outdoor lighting that creates a glare or glow causing visual discomfort to other Lot owners shall be permitted only for brief, limited periods. No sound shall be emitted on any Lot which is unreasonably loud or annoying, and no odor shall be emitted on any Lot which is noxious or offensive to others. No coal shall be burned within the Subdivision.

Section 3.16 - Refuse. No refuse, including without limitation trash, garbage, lumber, grass clippings, shrub clippings or tree clippings, plant waste, compost, ashes, metals, bulk materials, or scrap materials shall be allowed to accumulate on any Lot. Each Owner shall provide suitable covered, noiseless, animal-proof receptacles for the collection of such refuse in preparation for regularly scheduled periodic pickup. Refuse shall be stored for such pickup in such containers which

shall, in turn, be enclosed in an approved structure so as to be screened from public view and protected from disturbance. No refuse may be thrown or dumped on any part of the Subdivision. The burning of refuse out of doors shall not be permitted. No incinerators or other devices for the burning of refuse indoors shall be constructed, installed, or used within the Subdivision.

Section 3.17 - Continuity of Construction. All construction, alteration and demolition shall be completed within twelve months of commencement, unless extended by the Design Review Board and the Town for good and sufficient cause.

Section 3.18 - Mobile Homes. No mobile home or temporary structure shall be permitted within the Subdivision, except on a temporary basis for use as a construction office, as permitted by the Design Review Board.

Section 3.19 - Fences. Lots shall not be fenced, except that fences approved by the Design Review Board shall be permitted around the Building Envelope and a reasonably sized yard.

Section 3.20 - Drainage. No Owner shall alter the natural drainage of any Lot more than the minimum necessary as approved by the Design Review Board or in a manner which damages any Building, Improvement or other Lot within the Subdivision.

Section 3.21 - Foundations. No Building shall be approved or constructed within the Subdivision unless the foundation for such Building has been designed by a Colorado licensed engineer who has affixed his seal to the foundation plans.

Section 3.22 - Utilities. All utilities shall be installed underground.

Section 3.23 - Clotheslines. All outdoor clotheslines shall be shielded from view as approved by the Design Review Board.

Section 3.24 - Motor Vehicle Repair. No motor vehicles shall be repaired within the Subdivision except within a fully enclosed garage.

Section 3.25 - Camping. No camping shall be allowed within the Subdivision.

Section 3.26 - Nuisance. No obnoxious or offensive activity shall be carried on within the Subdivision, nor shall anything be done or permitted which shall constitute a public nuisance. No noise or other nuisance shall be permitted to exist or operate within the Subdivision so as to be detrimental to any part of the Subdivision or offensive to its occupants.

Section 3.27 - Leasing. The Owner of a Lot shall have the right to lease such Lot but only subject to all of the following conditions:

A. The entire Lot and all improvements thereon shall be leased to one individual or to one family.

B. Every lease shall be in writing and shall provide that any failure of lessee to comply with any provision in the Association Documents shall be a default under the lease.

C. The Owner shall be responsible for any violation of any provision in the Association Documents by Owner's lessee.

D. A copy of every lease having a term in excess of two months shall be filed with the Association.

ARTICLE 4.

DESIGN REVIEW AND APPROVAL

Section 4.1 - Design Review Board. The Board of Directors of the Association shall constitute the Design Review Board.

Section 4.2 - Review and Approval. No Building or Improvement shall be commenced, constructed, erected or maintained on any Lot, nor shall any landscaping be done, nor shall any exterior painting, addition, change, alteration or demolition be made, until the plans and specifications therefor have been submitted to and approved in writing by the Design Review Board in the manner hereafter set forth.

Section 4.3 - General Requirements. All Buildings and Improvements within the Subdivision shall have a pleasing appearance in harmony with the natural features of the land, surrounding environs and the Purposes stated in this Declaration. No bright colors or other construction techniques which would unnecessarily call attention to the Building shall be permitted. A-frames or geodesic domes shall not be permitted. Colors of Buildings and Improvements shall be primarily earth tones.

Section 4.4 - Submittal Procedure. Prior to the commencement of any work requiring the approval of the Design Review Board as above set forth, the plans for any such Building or Improvement shall be submitted to the Design Review Board for approval. The submittal for approval shall include, at a minimum, all documents required by the Design Guidelines.

Section 4.5 - Purpose of Review. The Design Review Board shall consider the suitability of the proposed Building or Improvement and in particular the harmony of the Building or

Improvement with the environment, the effect of the Building or Improvement on the utilization and view of the Lot and surrounding Lots and Property and the placement of the Building or Improvement with respect to topography, drainage, snow removal, ground elevations and existing natural and terrain features and compliance with the Design Guidelines.

Section 4.6 - Hearing. The Design Review Board shall, within forty-one days after receipt of a complete application with all accompanying data, hold a hearing on such application. The Design Review Board may approve, disapprove or approve with conditions any application submitted to it. The decision of the Design Review Board shall be in writing. In the event that the Design Review Board fails to take action within thirty days after the date of the hearing, or fails to hold such hearing within forty-one days after receipt of a complete application, the application shall be deemed to have been approved.

Section 4.7 - Notice of Hearing. The applicant, or any person on applicant's behalf, may attend the hearing and submit information in support of the application. Written notice of the hearing shall be mailed to all Members of the Association and all such Members shall have the right to be present at the hearing or to submit written comments.

Section 4.8 - Quorum. A majority of the Design Review Board shall constitute a quorum and all decisions of the Design Review Board shall be by majority vote of the board members present and shall be in writing.

Section 4.9 - Final Decision. The decision of the Design Review Board shall be final, subject only to the right of judicial review as provided by the laws of the State of Colorado. In the event of disapproval, the Design Review Board shall indicate to the applicant the reasons why the application was disapproved and grant to the applicant an opportunity to resubmit with revisions and corrections that would secure approval by the Design Review Board.

Section 4.10 - Expenses. The Design Review Board may adopt a schedule of fees to be charged for each application submitted to the Design Review Board for review and approval. Such fees shall be paid by the applicant upon submittal of the application.

Section 4.11 - Limitation of Liability. The Design Review Board shall use reasonable judgment in approving or disapproving all plans and specifications submitted to it for review and approval. Neither the Design Review Board, nor any individual member thereof, shall be liable to any Person for any act of the Design Review Board in connection with any application, except only to the extent that the Design Review Board, or any individual member thereof, acted with malice or wrongful intent.

Section 4.12 - Building Permit. Compliance with the design review process is not a substitute for compliance with the Town building regulations. Each Owner is responsible for obtaining all approvals, licenses and permits as may be required by the Town and any Special District providing services to the Lot prior to starting construction, alteration or demolition of any Building or Improvement.

Section 4.13 - Design Guidelines. Subject to approval by the Town, the Declarant and/or the Design Review Board shall adopt Design Guidelines which shall include all design requirements for the construction of any Building or Improvement upon any Lot within the Subdivision. Such Design Guidelines may be altered, amended, revised, and changed from time to time as determined by the Design Review Board.

Section 4.14 - Rules and Regulations. The Design Review Board may adopt such rules and regulations as are appropriate to govern its proceedings or the implementation of its responsibilities.

ARTICLE 5.

OVERLOOK AT MT. CRESTED BUTTE ASSOCIATION, INC.

Section 5.1 - Establishment of Association. The Overlook at Mt. Crested Butte Association, Inc., a Colorado non-profit corporation, shall be governed by and shall exercise all of the duties, privileges, obligations and powers set forth in this Declaration, the Design Guidelines and the Articles of Incorporation and Bylaws of the Association.

Section 5.2 - Members. Each Owner shall be a member of the Association. No Owner, whether one or more persons or entities, shall have more than one membership per Lot owned by such Owner, but all persons owning each Lot shall be entitled to the rights of membership and the use and enjoyment appurtenant to the ownership of each Lot.

Section 5.3 - Termination of Membership. The right of membership in the Association and the status as a member shall terminate upon the termination of status as an Owner of a Lot. Upon conveyance, sale or assignment of the Owner's interest, the selling Owner shall be relieved of liability for assessments from and after the date of such sale or conveyance; provided, however, that no such sale or conveyance of any ownership shall relieve an Owner of liability arising prior to the date of such sale or conveyance.

Section 5.4 - Voting Rights. All Owners within the Subdivision shall be members of the Association. The Owner of each Lot shall be entitled to one vote in the Association. The vote for each Lot shall be exercised by the Owner and when more than one person or entity holds an interest in a Lot the vote for the Lot shall be exercised as the Owners may determine among themselves, but the vote for the Lot shall be cast by only one person.

Section 5.5 - Compliance with Documents. Each Owner shall abide by and have the benefit from the provisions, covenants, conditions and restrictions contained in the Association Documents.

Section 5.6 - Rules and Regulations. The Association shall from time to time adopt, amend and repeal rules and regulations to be known as the "Overlook at Mt. Crested Butte Rules and Regulations" governing, among other things, and without limitation:

A. The use of any property owned or controlled by the Association.

B. The use of all easements shown on the Plat, except easements shown as "Public Areas".

C. Repair, maintenance and upkeep of all property owned by the Association and any property under the jurisdiction of the Association.

D. Standards for the repair, maintenance, upkeep and use of all Lots and all Improvements, Buildings, grounds and landscaping situate upon such Lots within the Subdivision.

E. Any other matter set forth in the Association Documents or authorized by law.

ARTICLE 6.

MAINTENANCE ASSESSMENTS

Section 6.1 - Creation of Lien. Each Owner of any Lot, by acceptance of a Deed therefor, whether or not it shall be so expressed in any Deed, is deemed to covenant and agree to pay to the Association: (1) All regular Assessments or charges; and (2) any special Assessments or charges; and (3) any default Assessments or charges, all of which shall be fixed, established and collected as determined by the Association. The annual, special and default Assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge and continuing lien upon the Lot against which each such Assessment is made

until paid. Each such Assessment, together with interest, costs and reasonable attorneys' fees, shall be the personal obligation of the Owner of such Lot at the time when the Assessment became due.

Section 6.2 - Purpose of Assessments. The Assessments levied by the Association shall be used for the following:

A. Any costs and expenses pertaining to the operation of the Association in the performance of its duties and the exercise of its powers.

B. Acquisition, rental, maintenance, operation and improvement of any real or personal property or other facility for the use or benefit of the Owners.

C. Any maintenance, repair or improvement required to be made by any Owner to any Improvement or any Lot which the Owner fails to do.

D. Any other purpose approved by the Owners holding a majority of the votes in the Association.

Section 6.3 - Regular Assessments. The Board of Directors shall prepare a budget prior to the beginning of each fiscal year of the Association and prior to the commencement of each fiscal year, the Board shall adopt a budget and shall determine, levy and assess the Association's regular Assessments for the following year.

Section 6.4 - Special Assessments. In addition to the regular Assessments set forth in Section 6.3, above, the Board of Directors may levy in any fiscal year one or more special Assessments for the purpose of defraying, in whole or in part, any expense which was not anticipated at the time the budget was adopted. Notice of the amount and due dates for such special Assessments shall be sent to each Owner at least thirty days prior to the due date.

Section 6.5 - Assessment for Each Lot. All regular and special Assessments shall be allocated equally among all Lots.

Section 6.6 - Default Assessments. Any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner, shall be a default Assessment and shall become a lien against such Owner's Lot and may thereafter be foreclosed or otherwise collected as provided herein. Notice of the amount and due date of such default Assessment shall be sent to the Owner subject to such Assessment at least thirty days prior to the due date.

Section 6.7 - Nonpayment of Assessments. Any Assessment, whether regular, special or default Assessment, which is not paid within thirty days of its due date shall be deemed delinquent. In the event that any Assessment becomes delinquent, the Association, in its sole discretion, may take one or more of the following actions:

A. Assess a late charge of at least 10% of the amount due and owing per delinquency.

B. Assess an interest rate charge from the date of delinquency at the rate of eighteen percent per annum or at such other rate as the Board shall set.

C. Suspend the voting rights of the Owner during any period of delinquency.

D. Bring an action against any Owner personally obligated to pay the delinquent Assessment.

E. File a Statement of Lien with respect to the Lot and foreclose such lien in the manner hereafter set forth. The Association may file a Statement of Lien by recording with the Clerk and Recorder of Gunnison County, Colorado, a written statement with respect to the Lot, setting forth the name of the Owner, the legal description of the Lot, the name of the Association and the amount of the delinquent Assessments then owing, which Statement shall be signed and acknowledged by an officer, manager, attorney or other representative of the Association and which shall be sent by certified mail, postage prepaid, to the Owner at such address as the Association may have in its records. Thirty days following the mailing of such Notice, the Association may proceed to foreclose the Statement of Lien in the same manner as provided for the foreclosure of mortgages or in any other manner authorized by the law of the State of Colorado. Such Statement of Lien shall secure all Assessments accruing or assessed subsequent to the date of recording of such Statement of Lien until the same has been satisfied and released, together with the Association's attorneys' fees and costs incurred in connection with such delinquency, including the preparation and recording of such Statement of Lien and any release thereof. In any action for the payment or foreclosure of such Assessment, the Association shall be entitled to recover as part of the action, the interest, costs and all reasonable attorneys' fees with respect to the delinquency and action.

The Statement of Lien shall be superior to all other liens and encumbrances on such Lot, except only any tax and assessment liens levied by any governmental entity and the lien of any First Mortgage; provided, however, that at all times the lien of the Association shall have priority and status over any other lien or

Mortgage as provided by the Colorado Common Interest Ownership Act, as it now exists and as it may hereafter be amended.

Section 6.8 - Successor's Liability for Assessment. In addition to the personal obligation of each Owner to pay all Assessments and the Association's lien on a Lot for such Assessments, all successors to the ownership of a Lot shall be jointly and severally liable with the prior Owner for any and all unpaid Assessments, interest, costs, expenses and attorneys' fees against such Lot.

ARTICLE 7.

ENFORCEMENT OF COVENANTS

Section 7.1 - Violations Deemed a Nuisance. Every violation of this Declaration of Protective Covenants, the Articles and Bylaws of the Association or any rules and regulations adopted by the Association shall be deemed to be a nuisance and is subject to all the remedies provided for the abatement thereof.

Section 7.2 - Failure to Comply. The failure to comply herewith shall be grounds for an action to recover damages, for injunctive relief, for specific performance, or for any other relief available in law or at equity. Reasonable notice and an opportunity to be heard shall be provided by the Association to any delinquent Owner prior to commencing any legal proceedings.

Section 7.3 - Who May Enforce. Any action to enforce any provision of the Association Documents may be brought by the Association in the name of the Association on behalf of the Association and/or the individual Owners, by any Owner or by the Town.

Section 7.4 - No Waiver. The failure of the Board, the Association, or any other Owner to enforce or obtain compliance as to any violation, shall not be deemed a waiver of the right to do so for any subsequent violation or the right to enforce any part of such documents.

Section 7.5 - Attorneys Fees. In the event of any legal action or arbitration to enforce any of the provisions of the Association Documents, or for damages, or to restrain the violation of the Association Documents, whether judicial, non-judicial or administrative, the prevailing party shall be entitled to recover all costs, fees and expenses incurred by it in such action, including all reasonable attorneys' fees that it may incur. The Association shall be entitled to recover reasonable attorneys' fees for any legal assistance given to the Association as above provided whether or not legal proceedings are actually filed in court.

ARTICLE 8.

DURATION OF COVENANTS

Section 8.1 - Term. The term of this Declaration of Protective Covenants, and any amendments or supplements thereto, shall be from the date of recording in the records of Gunnison County, Colorado and until September 1, 2018. Thereafter, this Declaration of Protective Covenants shall be automatically extended for five successive periods of ten years each, unless otherwise terminated or amended as hereafter provided.

Section 8.2 - Amendment. This Declaration and/or the Plat may be terminated, extended, modified or amended upon the written consent by the Owners holding 67% of the votes in the Association, subject to approval by the Town. Any such amendment shall be by an instrument duly executed, acknowledged and recorded in the records of Gunnison County, Colorado, and upon such recording shall be for the benefit of and be binding on all Owners of Lots within the Subdivision.

Section 8.3 - Amendment by Declarant. Notwithstanding the provisions of Section 8.2, above, the Declarant reserves the right and power to modify or amend this Declaration and/or the Plat in any respect, subject to approval by the Town, by executing and recording such amendment in the records of Gunnison County, Colorado. This right to modify or amend this Declaration or the Plat in whole or in part, at any time and from time to time, shall be effective until one-third of all Lots within the Property have been conveyed by a recorded instrument of conveyance to a person or persons other than the Declarant.

Section 8.4 - Mortgage Holder Approval Not Required. The Declaration and/or Plat may be amended as set forth in Sections 8.2 and 8.3 of this Declaration and such amendment shall be effective against the holders of Mortgages encumbering Lots in the Subdivision notwithstanding the fact that such holders of Mortgages have not approved such amendment.

ARTICLE 9.

PRINCIPLES OF INTERPRETATION

Section 9.1 - Severability. This Declaration, to the extent possible, shall be construed so as to give validity to all of the provisions hereof. If any provision of this Declaration is determined to be invalid, unenforceable or prohibited by any

court, the same shall not affect any other provision or section hereof and all other provisions and sections shall remain in full force and effect.

Section 9.2 - Construction. In interpreting words herein, unless the context shall otherwise provide or require, the singular shall include the plural, the plural shall include the singular and the use of any gender shall include all genders.

Section 9.3 - Headings. The headings on any section or article are included only for purposes of convenient reference and shall not affect the meaning or interpretation of this Declaration.

Section 9.4 - Written Notice. All notices required under this Declaration shall be in writing. Notice to any Owner shall be considered delivered and effective upon personal delivery or five days after mailing by certified or registered mail, return receipt requested, to the address of such Owner on file in the records of the Association at the time of such mailing.

Section 9.5 - Limitation of Liability. Neither the Association nor any officer or director shall be liable to any party for any action or for any failure to take any action with respect to any matter arising by, through or under this Declaration if the action or failure to act was made in good faith. The Association shall indemnify all officers and directors with respect to any action taken in their official capacity as provided in the Association Documents.

Section 9.6 - Applicable Law. The proper jurisdiction and venue for any action pertaining to the interpretation or enforcement of the Association Documents shall be the County Court or District Court of Gunnison County, Colorado, unless otherwise chosen by the Association.

Section 9.7 - Interest. Any sums, amounts or monies due and owing to the Association under the Association Documents shall bear interest at 1.5% per month (18% per year) or at such other rate of interest as the Board shall set from the date due until paid.

Section 9.8 - Assignment. Declarant may assign all or any part of its rights and reservations hereunder to any successor who takes title to all or part of the Property in a bulk purchase for the purpose of development and sale, and/or to the Association, in whole or in part. Such successor shall be identified, the particular rights being assigned shall be specified, and, to the extent required, concomitant obligations shall be expressly assumed by such successor, all in a written instrument duly recorded in the records of the Clerk and Recorder of Gunnison County, Colorado.

Section 9.9 - Town Code. The provisions of the Town Code pertaining to the Single Family Residential District shall apply to all land use within the Subdivision, except as provided otherwise in this Declaration or on the Plat, in which event this Declaration shall control.

ARTICLE 10.

RIGHTS RESERVED TO DECLARANT

Section 10.1 - Development Rights and Special Declarant Rights. The Declarant specifically reserves the right to exercise in any order all Development Rights and Special Declarant Rights as set forth in the Colorado Common Interest Ownership Act and this Declaration for the maximum time limit allowed by law, including, without limitation, the following:

A. The right to amend the Declaration or Plat as set forth in Section 8.3.

B. The right to appoint or remove any officer of the Association or any Director of the Association during the Declarant Control Period.

C. The right to complete or make any Improvements as set forth on the Plat, the Association Documents or as required by the Town.

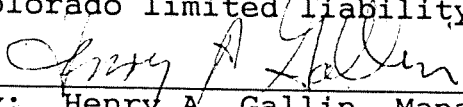
D. The right to add additional land and/or Lots to the Subdivision as provided in Section 2.20 of this Declaration.

E. The right to maintain signs to advertise the Subdivision.

F. The right to dedicate a future public or private easement as shown on the Plat.

IN WITNESS WHEREOF, the Declarant has executed this Declaration of Protective Covenants as of the day and year first above written.

Overlook at Mt. Crested Butte Limited Liability Company, a Colorado limited liability company


By: Henry A. Gallin, Manager

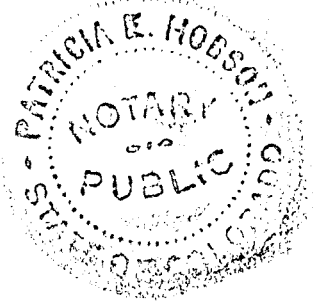
STATE OF COLORADO)
) ss.
COUNTY OF GUNNISON)

BK PG
739 471

The above and foregoing Declaration of Protective Covenants for Overlook at Mt. Crested Butte was acknowledged before me this 24th day of December, 1993, by Henry A. Gallin as Manager of Overlook at Mt. Crested Butte Limited Liability Company, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 5/28/95



Patricia E. Hobson
Notary Public

EXHIBIT A

A parcel of land located in the southeast quarter of the southeast quarter of Section 26 and northeast quarter of the northeast quarter of Section 35, all in Township 13 South, Range 86 West of the 6th Principal Meridian, Town of Mt. Crested Butte, Gunnison County, Colorado, more particularly described as follows:

Beginning at the section corner common to Sections 25, 26, 35 and 36, a standard brass cap on an iron pipe;

Thence South 00°57'02" West along the east line of said Section 35 a distance of 1322.35 feet to the north sixteenth corner common to said Section 35 and Section 36, a #6 rebar with a 4" square galvanized metal plate stamped with the number 6753;

Thence South 89°41'12" West along the south line of said northeast quarter of the northeast quarter of Section 35 a distance of 1086.45 feet;

Thence departing said south line north 05°40'25" West a distance of 155.80 feet;

Thence North 32°06'57" West a distance of 235.59 feet;

Thence North 16°54'45" West a distance of 196.38 feet;

Thence North 63°52'24" West a distance of 72.69 feet to the west line of the northeast quarter of the northeast quarter of Section 35;

Thence North 00°52'40" East along said line a distance of 743.34 feet to the east sixteenth corner common to said Sections 26 and 35, a #6 rebar with a 4" square galvanized metal plate stamped with the number 6753;

Thence North 02°11'48" West along the west line of the southeast quarter of the southeast quarter of said Section 26 a distance of 198.89 feet;

Thence departing said line North 47°31'31" East a distance of 265.44 feet;

Thence North 38°15'55" West a distance of 29.46 feet;

Thence North 89°33'44" East a distance of 1171.56 feet to the east line of the southeast quarter of the southeast quarter of said Section 26;

Thence South 02°39'50" East along said east line a distance of 400.11 feet to the point of beginning.

MT Crested Butte CO 81738
13 S 86 W
TOWNSHIP 13 SOUTH
RANGE 86 WEST