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DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS
FOR
MOUNTAIN SIDE P.U.D.

SECTION G

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Conditions, and Restrictions
for
MOUNTAIN SIDE P.U.D.

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Exhibit

A

DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS
FOR MOUNTAIN SIDE P.U.D.

Declaration made this 16th day of December,
1981, by Miner's Creek Associates, a Colorado limited partnership,
hereinafter called "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of property located in the
Town of Frisco, Colorado, more particularly described in Exhibit A
attached hereto, and hereby incorporated by reference (hereinafter
called the "Property"), and desires to create Mountain Side P.U.D.,
a planned unit development, consisting of 41 single and
multifamily residential sites, roads, parking areas, open spaces,
recreational and other related facilities for the benefit of a
common building scheme on the Property and such other property as
hereafter may be made subject to this Declaration (herein
collectively designated as the "Project"); and

WHEREAS, Declarant desires to enhance, protect, establish and
maintain the character, value, desirability and attractiveness of
the Property and to insure its development as a part of a common
building scheme; and

WHEREAS, Declarant desires to provide for the operation and
maintenance of the recreational and other related amenities
contained within the Project; and

WHEREAS, Declarant desires to create an Association delegated and assigned the powers and duties of owning and maintaining certain common recreational areas and amenities and administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereafter created; and

WHEREAS, Declarant deems it necessary and desirable, for the welfare of Owners of Residential Units or Sites (as hereafter defined) within the Project and for the preservation of the Project's value, to subject the Property to the covenants, restrictions, easements, charges, assessments, and liens hereinafter set forth, which covenants, restrictions, easements, charges, assessments, and liens shall be burdens and benefits to Declarant and the Owners of Residential Units or Sites, and their respective successors, heirs, executors, administrators, devisees, grantees or assigns:

NOW, THEREFORE, Declarant hereby declares that the Property described in Exhibit A, and all additional Property made subject to this Declaration pursuant to Section 8.4 hereof, shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purposes of protecting the value and desirability of, and which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors, and assigns.

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. The following words, when used in this Declaration or in any Supplemental Declaration (unless inconsistent with the context hereof) shall have the following meaning:

(a) "Architectural Standards" means the rules and regulations from time to time established by the Planning and Architectural Control Committee to interpret and implement the provision of Section 2.2. hereof.

(b) "Association" means the Mountain Side Homeowners Association, a Colorado nonprofit corporation, its successors and assigns.

(c) "Board of Directors" means the governing body of the Association, elected as hereinafter provided, to perform the obligations of the Association relative to the ownership of the Common Recretional Areas.

(d) "Committee" means the Planning and Architectural Control Committee created pursuant to Article II hereof.

(e) "Common Recretional Areas" means those areas conveyed by the Declarant to the Association for the common recretional use of the Owners.

(f) "Declarant" means Miner's Creek Associates, a Colorado limited partnership, its successors and assigns.

(g) "Declaration" means the Declaration of Covenants, Conditions, and Restrictions for Mountain Side P.U.D.

(h) "Owner" means the record owners, whether one or more person or entities, of the fee simple title to any (1)

Condominium Unit, (2) single family house, or (3) duplex, triplex or fourplex unit constructed on a Site in the Property, 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, including a mortgagee or beneficiary under a deed of trust, unless and until such person has acquired fee simple title pursuant to foreclosure or other proceedings.

(i) "Preliminary Development Agreement" means the Preliminary Development Agreement for Mountain Side P.U.D.

(j) "Property" means that certain real property more particularly described in Exhibit A attached hereto and such additions thereto as may hereafter be brought within the terms of this Declaration.

(k) "Residential Unit" means any single family dwelling unit constructed on the Property pursuant to the provisions of Article II hereof, and shall include without limitation condominium units, single family houses, and each unit constructed on a duplex, triplex or fourplex Site. For the purposes of this Declaration an Owner of a Site upon which a single or multifamily Residential Unit is or may be constructed shall be considered as owning as many Residential Units as may be constructed thereon.

(l) "Rules and Regulations" means the rules and regulations from time to time established by the Board of Directors of the Association;

(m) "Site" means any lot or plot of land shown on any recorded subdivision map or plat of the Property.

ARTICLE II

ARCHITECTURAL CONTROL

Section 2.1 Planning and Architectural Control Committee.
The Planning and Architectural Control Committee ("Committee")

shall consist of at least three members designated by Declarant to review, study and approve or reject proposed improvements on any Site in the Project. The members of the Committee need not be Owners. The Committee shall have power to enforce the provisions of this Declaration to make such rules and regulations and adopt such procedures as it may deem appropriate to govern its proceedings and effect its function.

Section 2.2 Architectural Control. The Committee shall review, study and approve or reject proposed improvements upon the Property subject to the covenants and restrictions of this Section 2.2.

Section 2.2.1 Approval Required. No building or structure of any kind shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration thereto be made, nor shall any vegetation be altered or destroyed, nor any landscaping performed until satisfactory and complete plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures, topography, and overall environment by the Committee. Approval by the Committee is in addition to and not in lieu of compliance with the Preliminary Development Agreement and building code requirements of the Town of Frisco.

Section 2.2.2 General Criteria. In passing upon such plans and specifications, it shall be the objective of the

Committee to make certain that no improvements will impair the aesthetic and monetary values of the Project. The Committee shall consider all factors relating to the quality of the improvements and the compatibility and harmony of the improvements with the environment, including, but not limited to, the location of the improvements on the Sites and the color scheme, materials, design, proportions, shape, height and style of the improvements; the effect of any proposed improvement on adjacent or neighboring property; the location and character and method of utilization of all utility lines; the impact of any proposed improvement upon the natural surroundings; and the timely and orderly completion of all such improvements.

Section 2.2.3 Powers of the Committee. The Committee shall have the authority to require each Owner to hire duly licensed architectural and professional engineering advisors to develop and coordinate plans and specifications for the construction of improvements on and the landscaping of a Site. The Committee shall have the authority to prevent an Owner from occupying or allowing occupancy of any building in the Project until all requirements of the Architectural Standards have been satisfied. In addition, the Committee shall be entitled to charge a reasonable review fee and to require an Owner to pay for the cost of any consulting fees paid to an architect or engineer hired by the Committee to evaluate the Owner's Plan.

Section 2.2.4 Architectural Standards. The Committee shall promulgate rules and regulations to interpret and implement the provisions of this Article. These rules and regulations shall be known as the "Architectural Standards" and shall contain, among other things, the following:

(a) The detailed review procedures an Owner is to follow when submitting his plans and specifications to the Committee for approval.

(b) Guidelines which will clarify the types of designs and materials that will be considered in compliance with the Architectural Standards.

(c) A limited variance procedure requiring at least two-thirds vote of the Committee which may be used upon good cause shown by an Owner, and then only upon such terms and conditions as the Committee shall require.

ARTICLE III

COMMON RECREATIONAL AREA

Section 3.1 Outlots A and B of Mountain Side P.U.D. shall be and are hereby reserved as Common Recreational Areas. The common amenities to be constructed on Outlot B by Declarant include but shall not be limited to, a clubhouse with sauna, spa, laundry and office facilities, outdoor pool facilities and related amenities.

Prior to the conveyance of any other lot by Declarant, Declarant shall convey Outlots A and B to the Association created pursuant to Article IV hereof. The Association shall be responsible for the upkeep, repair and maintenance of Outlots A and B and the recreational amenities located thereon on behalf of all Owners.

ARTICLE IV

MOUNTAIN SIDE HOMEOWNERS ASSOCIATION

Section 4.1 General Purposes and Powers. The Association will be formed as a Colorado nonprofit corporation to own the Common Recreational Areas as provided in this Declaration, to maintain the common amenities located thereon and all pedestrian easements within the Project and to otherwise further the interest of the Owners. To accomplish its purposes, the Association shall have all the duties and power more particularly set forth in this Declaration.

Section 4.2 Membership. Every Owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Residential Unit or Site which is subject to assessment.

Section 4.3 Voting. Each Owner, including the Declarant, shall be entitled to one vote for each Residential Unit owned. When more than one person holds an interest in any Residential Unit, such persons shall designate one person to be a member of the Association and to represent such Owners as to all matters coming before the Association.

Section 4.4 Compliance with Association Articles, Bylaws, Etc. The Association shall be governed by and each Owner shall abide by and benefit from each provision, covenant, condition, and

restriction contained in the Articles of Incorporation and Bylaws of the Association or any rule, regulation, standard or restriction promulgated pursuant to said Articles and Bylaws.

Section 4.5 Board of Directors. The Association shall be managed by a Board of Directors elected from the Owners (hereinafter sometimes referred to as the "Board"). Notwithstanding anything to the contrary herein provided until one hundred twenty (120) days after the date by which title to seventy-five percent (75%) of all Sites on the Property, as expanded, has been conveyed by the Declarant to the initial purchasers, or until December 31, 1985, whichever first occurs, the members of the Board of Directors shall be appointed by Declarant and shall serve at the pleasure of Declarant and need not be Owners; provided, however, that Declarant shall at any time have the option to allow election of a Director or Directors from among the Owners.

ARTICLE V

OPERATION AND MAINTENANCE OF COMMON RECREATIONAL AREAS

Section 5.1 Operation and Maintenance of Common Recreational Areas. The Association shall maintain all the Common Recreational Areas and all of the improvements located therein, and keep them in good condition, repair, clean, and free of rubbish and other hazards to persons using such areas. It will have the right to select from time to time a person or persons to operate and maintain the Common Recreational Areas, provided that such selection will not diminish its obligations to maintain and operate the Common Recreational Areas. Each Owner shall pay the

Association as its respective share of the costs of maintenance, operation and management of the Common Recreational Areas a pro rata share of such costs based on the ratio of the number of Residential Units owned by the Owner to the number of Residential Units which may be constructed in the Project. Such maintenance will include, within limitation:

(a) Maintenance within Outlots A and B of such appropriate parking area entrance, exit, and directional signs, markers, and lights in the Project as will be reasonably required.

(b) Performance of maintenance of landscaping necessary to keep Outlots A and B in first-class condition and to provide the general effect contemplated by the improvements. For example, trees and shrubbery will be properly pruned or otherwise controlled to prevent any condition of overgrowth.

(c) Payment of all use and permit charges and all electrical, water, and other utility charges or fees for services furnished to Outlots A and B and other Common Recreational Areas or the Property as a whole.

Section 5.2 Use of Common Recreational Area by Non-Owners.
The Declarant, until December 31, 1985, and the Association, for so long thereafter as deemed necessary or desirable, shall make the amenities to be constructed on Outlot B, including the clubhouse with sauna and spa and outdoor pool facilities, available to a limited number of non-Owners on the basis of irrevocable passes issued pursuant to this paragraph. Passes issued to non-Owner users shall be irrevocable except for nonpayment of the monthly use fee, shall be non-transferable, and

shall entitle the holder to use the amenities to be constructed on Outlot B subject to the same rules and regulations as shall apply to Owners. The Association shall promulgate a procedure for the surrender, collection and termination of passes issued to non-Owner users, for the determination, assessment and collection of a monthly use fee from non-Owner users (which shall not exceed the assessment imposed on Owners), and shall maintain a list of non-Owner users and their registered mailing addresses. A non-Owner user shall not become a member of the Association or be entitled to any other rights or benefits under this Declaration solely by his receipt of a pass to the Common Recreational Area and payment of the monthly use fee.

Section 5.3 Operation and Maintenance Assessment. The cost of maintenance and operation of Common Recreational Areas and pedestrian easements referred to means the total of all items of direct cost and expense necessarily expended for the supervision, operation, maintenance, and repair of the Common Recreational Areas and pedestrian easements, determined in accordance with generally accepted accounting principles. The cost includes, but shall not be limited to, maintenance, replacements, and reconstruction work as required to preserve the utility of the Common Recreational Areas and all equipment associated therewith, in the same condition and status as it was as of the time of the completion of the original construction and installation, and further includes all rental charges for equipment, the cost of small tools and supplies, all costs for police, security

protection, traffic direction and control, and parking regulations; expenses of management, legal and accounting fees; costs of cleaning and removal of snow, rubbish, dirt, and debris from the Common Recreational Areas and pedestrian easements; the cost of landscaping, and supplies incidental to such; all charges for utility services used in connection with such, together with all costs of maintaining lighting fixtures in the automobile parking areas and all premiums for public liability and property damage insurance covering the Common Recreational Areas; payment of any deficit remaining from a previous assessment period; the creation of a reasonable contingency or other reserve or surplus fund and all other expense relating to operation and maintenance of the Common Recreational Areas.

ARTICLE VI

ASSESSMENTS

Section 6.1 Obligation. All Owners shall be obligated to pay the estimated assessments imposed by the Association to meet the common expenses of maintenance, operation, and management of the Common Recreational Areas; provided, however, Declarant shall have no obligation to pay the estimated assessments until such time as Declarant turns over control of the Association to purchasers of Sites. Declarant shall, however, pay to the Association a sum equal to the difference between the monthly cost of operating, maintaining and managing the Common Recreational Areas, exclusive of reserves, and the amount of estimated assessments payable by other owners. The Association may establish any reasonable system for periodic collection of such

as deemed desirable and as is consistent with its Articles of Incorporation and its Bylaws. Assessments made shall be based upon the estimated cash requirements of the Association as shall from time to time be determined by the Association. The omission or failure of the Association to fix the 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 Association shall have the right, but not the obligation, to make pro rata refunds of any assessments in excess of the actual expenses incurred prior to the end of the fiscal year.

Section 6.2 Time for Payment of Assessments. Assessments shall be due and payable within 30 days after written notice of the amount thereof shall have been given to the respective Owner. Each assessment shall bear interest at a rate from time to time set by the Board of Directors from the date it becomes due and payable if not paid within thirty (30) days after such date. Failure of the Association to give timely notice of any assessment as provided herein shall not affect the liability of the Owner for such assessment, but the date when payment shall become due in such case shall be deferred to a date thirty (30) days after such notice shall have been given.

Section 6.3 Assessment Lien. All sums assessed but unpaid for the share of common expenses or the share of special assessments chargeable to any Residential Unit or Site shall constitute a lien on such Residential Unit or Site and improvements thereon superior to all other liens and encumbrances

except (a) tax and special assessment liens on the Residential Unit or Site, and (b) all sums unpaid on a first mortgage of record, including all unpaid obligatory sums as may be provided by such encumbrance. To evidence the lien as herein permitted, the Association may, but shall not be required to, prepare a written notice setting forth the amount of such unpaid indebtedness, the amount of accrued penalty thereon, the name of the Owner of the Residential Unit or Site, and a description of the Residential Unit or Site, and record the same in the office of the Clerk and Recorder of Summit County, Colorado. Such lien for assessment shall attach from the due date of the assessment. The lien may be enforced by foreclosure of the defaulting Owner's Residential Unit or Site by the Board in the manner provided for the foreclosure of a mortgage on real property. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid assessments, any penalties thereon, the costs and expenses of such proceedings, the costs and expenses for filing the notice of the claim and lien, and all reasonable attorneys' fees in connection therewith. The Association shall have the power to bid on a Residential Unit or Site at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. Any Mortgagee holding a lien on a Residential Unit or Site may pay any unpaid assessment payable with respect to such Residential Unit or Site, and any and all costs and expenses with respect thereto and the lien of the mortgage on such Residential Unit or Site shall thereafter include the amounts paid with the same priority as the lien of the mortgage.

Section 6.4 Personal Obligation. The amount of any assessment chargeable against any Residential Unit or Site shall be a personal and individual debt of the Owner thereof. No Owner may exempt himself from liability for the assessment by abandonment or waiver of the use or enjoyment of any of the Common Recreational Areas. Suit to recover a money judgment for unpaid common expenses plus interest and expense, including all attorneys' fees arising out of the collection of such sums, shall be maintainable without foreclosing or waiving the assessment lien provided herein.

ARTICLE VII

RESTRICTIVE COVENANTS

Section 7.1 Improvements Prohibited. No used or secondhand structure, no building of a temporary character, no mobile home, house trailer, tent, shack, or outbuilding shall be placed or used on a Site, either temporarily or permanently; except that necessary appurtenances for and during actual construction may be used, and trailers and structures of a temporary nature may be used during the period of construction of an approved and allowed improvement, but for no longer period than twelve (12) months without the written consent of the Committee.

Section 7.2 Signs. No signs, billboards, posterboards, or advertising structure of any kind shall be erected or maintained for any purpose whatsoever except such signs as have been approved

by the Committee pursuant to its published regulations. Notwithstanding anything herein to the contrary, Declarant or its agent shall have the right to erect signs during the period of sales of Sites and Residential Units without prior written approval of the Committee.

Section 7.3 No Mining, Drilling or Quarrying. No mining, quarrying, tunneling, excavating, or drilling for any substances within the earth, including oil, gas, minerals, gravel, sand, rock and earth, shall ever be permitted within the limits of the Project.

Section 7.4 Trash and Sewage. No trash, ashes, or other refuse or debris may be thrown or dumped on the Property. The burning of refuse out-of-doors shall not be permitted. No incinerators or other device for the burning of refuse indoors shall be constructed, installed, or used by any person except as approved by the Committee. Waste materials, garbage, and trash shall be kept in sanitary containers and shall be enclosed and screened from public view and protected from disturbance and shall be disposed of with reasonable promptness. The Owner of any Site subject to these covenants shall keep the premises free of trash, refuse, noxious weeds, or debris of any kind, whether said Site is vacant or improved.

Section 7.5 Pets. No pet may be kept which abnormally interferes with the rights, comforts, or convenience of other Owners. Breeding of any animals on the Property is specifically prohibited.

Section 7.6 Continuity of Construction. All Structures commenced shall be prosecuted diligently to completion.

Section 7.7 Noxious Annoying or Offensive Activity. No noxious or offensive activity shall be carried on upon any Residential Unit or Site, nor shall anything be done or placed on the Property which creates a disturbance or annoyance to others. No lights shall be emitted from any Residential Unit which are unreasonably bright or cause unreasonable glare; no sound shall be emitted from any Residential Unit or Site which is unreasonably loud or annoying; and no odor shall be emitted from any Residential Unit or Site which is noxious or offensive to others. Nothing shall be done on or permitted to be done on Outlots A and B which is a nuisance or might become a nuisance to an Owner or Owners.

ARTICLE VIII

GENERAL PROVISIONS

Section 8.1 Enforcement. The Association, the Declarant, or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, the Declarant, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter; provided, however, that upon the failure of the Association, Declarant or any Owner to enforce the provisions of this Declaration, the Town of Frisco may enforce them, but only

after giving thirty (30) days' notice to the Association of its intention to do so and only if the provisions are not enforced within such period.

Section 8.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 8.3 Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of 20 years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of 10 years. This Declaration may be amended during the first 20 year period by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Residential Units and thereafter by an instrument signed by the Owners of not less than fifty percent (50%) of the Residential Units. Any amendment must be recorded.

Section 8.4 Expansion. Until December 31, 1985, Declarant reserves the right to submit or allow others to submit additional adjoining real property (the "Additional Property") to the covenants, restrictions, easements, charges, assessments, and liens created by this Declaration. Such expansion shall be accomplished by Declarant filing for record in the office of the Summit County Clerk and Recorder a supplement to this Declaration containing a legal description of the Additional Property and compliance with applicable regulations of the Town of Frisco, Colorado. Such expansion may be accomplished in phases by the

recordation of successive supplements. Owners of such additionally submitted real property, regardless of when submitted to this Declaration, shall become members of the Association and be treated on the same basis as all other Owners. Declarant will cooperate with owners of adjoining real property in submitting such property to this Declaration. In the event of such submission, the definitions used in this Declaration shall automatically encompass and refer to the Property as so expanded.

Section 8.5 Resubdivision of Multifamily Sites. There is hereby reserved to Owners of Sites upon which duplex, triplex and fourplex units have been constructed the right to resubdivide the Site into as many separate Sites as there are Residential Units thereon. A resubdivision of a multifamily Site shall become effective only when the Owner of the Site which is to be resubdivided fulfills the resubdivision requirements of the Town of Frisco, Colorado and records an amendment to the subdivision map or plat of Mountain Side P.U.D. Such resubdivision of a Site shall be subject to the prior written approval of any mortgagees of the affected Site or Residential Units constructed thereon.

No Owner shall be allowed to resubdivide any Site until after completion of construction of the multifamily Residence on the Site and issuance of a Certificate of Occupancy from the authorized officials of the Town of Frisco, Colorado.

Section 8.6 No Public Dedication. Nothing contained in this Declaration shall be deemed a gift or dedication of any portion of

the Project to the Town of Frisco or the general public for its use, it being the intention of the Declarant that this Declaration will be strictly limited to the purposes expressed herein.

IN WITNESS WHEREOF, the undersigned being the Declarant herein, has hereunto set its hand and seal this 16 day of December, 1982

MINER'S CREEK ASSOCIATES, LTD.,
a Colorado limited partnership

BY: FELDMAN & SIMPSON INVESTMENTS,
a Colorado general
partnership, general partner

By: Lawrence Feldman
Lawrence Feldman, general
partner

STATE OF COLORADO)
COUNTY OF Boulder)ss:
)

The foregoing instrument was acknowledged before me this 16th day of December, 1982, by Lawrence Feldman as general partner of Feldman & Simpson Investments, a Colorado general partnership as general partner of Miner's Creek Associates, Ltd., a Colorado limited partnership.

Witness my hand and official seal.

My commission expires: December 4, 1983.

(SEAL)



Maureen K. Langer
NOTARY PUBLIC
Address: 1620 - 3rd Street Suite 700
Boulder, Colorado 80501

THE COLORADO NATIONAL BANK OF
DENVER, a national banking
association

By: _____

[Handwritten signature]

STATE OF COLORADO

)

)ss:

)

COUNTY OF

The foregoing instrument was acknowledged before me this 17th
day of December, 1982 by Deborah J. Ellena AS
Assistant Vice President of The Colorado National Bank of Denver, a
national banking association.

Witness my hand and official seal.

My commission expires: 10-2-85.

(SEAL)

[Handwritten signature]
NOTARY PUBLIC

Address: 9501st St.
Denver, CO 80212

**EXHIBIT A TO
DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS
FOR MOUNTAIN SIDE P.U.D.**

**Mountain Side P.U.D., as amended,
according to the recorded plat thereof
County of Summit
State of Colorado**