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**TOWNHOME
DECLARATION
FOR
CASTLE CREEK TOWNHOMES**

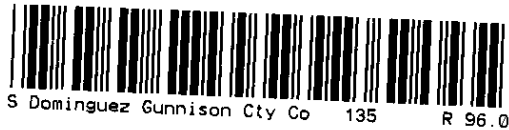
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TOWNHOME DECLARATION
FOR
CASTLE CREEK TOWNHOMES

THIS TOWNHOME DECLARATION FOR CASTLE CREEK TOWNHOMES is executed with an effective date of 12/10, 2004 by Cloudbreak, LLC, a Colorado limited liability company.

Section 1.6 Colorado Common Interest Ownership Act. Declarant declares the Property to be a Common Interest Community in accordance with the Colorado Common Interest Ownership Act.

ARTICLE 1
STATEMENT OF PURPOSE OF DECLARATION

ARTICLE 2
DEFINITIONS

Section 1.1 Ownership of Property. Declarant is the Owner of the following described real property ("Property") situate in Gunnison County, Colorado and described as follows:

The following definitions shall apply to this Declaration and the Exhibits attached hereto unless the context shall expressly provide otherwise:

Lot 26, Chalet Village Addition No., Town of Mt. Crested Butte, County of Gunnison, State of Colorado.

Section 2.1 "Townhome Assessments" shall mean any townhome assessments, whether regular, special or otherwise, levied pursuant to this Townhome Declaration or the Association Documents to provide the necessary funds for all requirements of this Townhome Declaration and the obligations of the Association as to the Castle Creek Townhomes.

Section 1.2 Intention. Declarant, as the Owner of the Property, intends to provide for single family townhome dwellings consisting of three Units.

Section 2.2 "Association" shall mean the Castle Creek Townhomes Association, a Colorado non-profit corporation, or any successor thereof charged with the duties and obligations set forth herein.

Section 1.3 Statement of Purpose. To accomplish such intention, this Declaration is executed to define the character, duration, rights, duties, obligations and limitations for the use and ownership of the Property as a Townhome Project and to provide for the benefit of all Owners of Units located within the Property.

Section 2.3 "Association Documents" shall mean:

2.3.1 This Townhome Declaration of Castle Creek Townhomes;

Section 1.4 Declaration of Protective Covenants. Declarant hereby declares and establishes the following terms, covenants, conditions, easements, restrictions, uses, reservations, limitations and obligations which shall be deemed to 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, and their heirs, successors and assigns and to inure to and be for the benefit of each Owner within Castle Creek Townhomes.

2.3.2 The Articles of Incorporation and Bylaws of the Association;

Section 1.5 Subdivision of Property. The Property is platted as Castle Creek Townhomes, according to the recorded plat thereof filed 12-10, 2004 and bearing Reception No. 549193 of the records of Gunnison County, Colorado.

Section 2.4 "Board of Directors" or "Board" shall mean the Board of Directors of the Association duly elected and acting according to the Association Documents.

Section 2.5 "Building" shall mean any building constructed or erected on a Unit.

Section 2.6 "Castle Creek Townhomes" shall mean all of the Property including the Buildings constructed thereon.

Section 2.7 "Common Area" shall mean all areas, tracts, and parcels of land shown on the Plat not designated as a "Unit."



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Section 2.8 "Common Wall" shall mean any common wall or party wall situate between the Individual Residences.

Section 2.9 "Declarant" shall mean Cloudbreak, LLC, a Colorado limited liability company, its successors and assigns.

Section 2.10 "Declaration" or "Townhome Declaration" shall mean this Townhome Declaration for Castle Creek Townhomes.

Section 2.11 "Triplex Building" shall mean a Building on three Units containing three (3) Individual Residences, each being a separate Individual Residence separated by a Common Wall.

Section 2.12 "Improvements" shall mean all Buildings, structures, parking areas, fences, walls, driveways, signs, changes in exterior or roof color or shape, excavation, site work, grading, road construction, utilities, landscaping, lawns, trees, shrubbery, grass, flowers, decorative devices and any exterior construction or exterior improvement constructed, completed or maintained on any Unit or Common Area within the Property.

Section 2.13 "Individual Residence" shall mean the Individual Residences within a Triplex Building or separated by a Common Wall.

Section 2.14 "Landscaping" shall mean all planted areas and plant materials, including lawns, trees, shrubbery, flowers, ground cover, all underground lawn watering systems, all driveways, parking areas and sidewalks of any Unit or Common Area and any other decorative materials or decorative devices forming a part of any landscaping area.

Section 2.15 "Unit" shall mean a Unit, as shown on the Plat of Castle Creek Townhomes, according to the official plat thereof filed 12-10-2004 and bearing Reception No. 549193 of the records of Gunnison County, Colorado.

Section 2.16 "Member" shall mean any Person who is a Unit Owner holding membership in the Association.

Section 2.17 "Mortgage" shall mean any mortgage, deed of trust or other document pledging a Unit, or interest therein, as security for the payment of any indebtedness.

Section 2.18 "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 2.19 "Owner" shall mean the record owner, whether one or more persons or entities, of fee simple title to any Unit; provided, however, that prior to the first conveyance of any Unit after the recording of this Declaration, the Owner shall mean the Declarant unless the Declarant has designated a successor in ownership of fee simple title to exercise the rights, duties and obligations of ownership.

Section 2.20 "Person" shall mean a person, corporation, partnership, joint venture, Association, fiduciary or any other type of entity or designation by which title to any Unit is held.

Section 2.21 "Plat" or "Subdivision Plat" shall mean the Plat of Castle Creek Townhomes, according to the official plat thereof filed 12-10-04 and bearing Reception No. 549193 of the records of Gunnison County, Colorado.

Section 2.22 "Property" shall mean and include all property subject to this Declaration.

Section 2.23 "Townhome Common Expenses" or "Common Expenses" shall mean the following expenses pertaining to Castle Creek Townhomes:

2.23.1 All expenses declared to be Townhome Common Expenses by this Townhome Declaration or the Association Documents.

2.23.2 The expenses of administration, operation, management and maintenance of the Castle Creek Townhomes.

2.23.3 The maintenance, repair or replacement of the exterior of any Building or Individual Residence, including any Common Wall and exterior surfaces of such Building.

2.23.4 The maintenance, repair or replacement of the roofs and roof structures of any Building.

2.23.5 The maintenance, care, upkeep and replacement of all Landscaping, including driveways, parking areas and sidewalks within Castle Creek Townhomes.



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2.23.6 All sums determined to be Townhome Common Expenses by the Association in accordance with the Association Documents.

2.23.7 All sums properly assessed against any Unit by the Association.

ARTICLE 3
DESCRIPTION OF UNIT

Section 3.1 Description of Unit. Every instrument affecting title to a Unit in Castle Creek Townhomes may describe that Unit as follows:

3.1.1 Unit 1, 2 or 3, Castle Creek Townhomes, according to the official plat thereof filed 12-10-2004 and bearing Reception No. 549194 of the records of Gunnison County, Colorado and the Townhome Declaration for Castle Creek Townhomes recorded 12-10, 2004 at Reception No. 549194 of the records of Gunnison County, Colorado.

Section 3.2 Sufficient Description. Such method of description shall be sufficient for all purposes to sell, convey, transfer, and encumber or otherwise affect the title of a Unit, and all appurtenant property rights pertaining thereto, and shall incorporate all of the rights, duties, limitations and burdens incident to ownership of a Unit as described in this Declaration.

ARTICLE 4
USE OF UNITS

Section 4.1 Use of Unit. All Units within the Property shall be used exclusively for one single-family residence with one attached garage together with any appurtenant decks, patios, fences and landscaping appurtenant thereto. No Building shall be constructed outside the Building footprint shown on the Plat.

Section 4.2 Enjoyment of Unit. Each Unit shall be for the exclusive use and enjoyment thereof by the Owner, members of his family and his guests. The leasing of a Townhome for residential purposes shall be allowed.

Section 4.3 Partition of Units. No Unit may be partitioned, subdivided nor in any manner divided into two or more Units.

Section 4.4 Approval of Use. No Improvement shall be constructed on any Unit without the approval of the Castle Creek Townhome Association as

approved in accordance with the Association Documents.

Section 4.5 Utility Easements. The Utility Easements and rights of way shown on the Plat shall be for ingress and egress, installation, replacing, repairing and maintaining all shared utilities and utility lines, including, but not limited to, water, sewer, gas, telephone, cable television and electricity by the utility providers. It shall be expressly permissible for the companies providing utilities to erect and maintain the necessary equipment on any of the Individual Residences and to affix and maintain electrical and/or telephone wires, circuits, conduits and pipes on, above, across and under the roofs and exterior walls of improvements, all in a manner customary for such companies in the area surrounding the Property, subject to approval by the Association.

Section 4.6 No Commercial Use. No commercial or business enterprise of any nature shall be allowed or permitted on any Unit; provided, however, that the Owner of a Unit may be permitted to conduct an in-home executive office or an in-home occupation, artistic or literary activity on a Unit upon the prior approval by the Board of Directors as to such occupation or activity. No such occupation or activity shall be approved by the Board of Directors which would create a visual, sound or traffic nuisance. Any such occupation or activity shall be subject to a reasonable limitation as to the number of persons and the number and type of motor vehicles involved in such occupation or activity. Certain in-home activities may require approvals from the Town of Mt. Crested Butte.

Section 4.7 Model Home and Sales Office. Notwithstanding the provisions of Section 4.6 above, during the period of the development of the Property and the sale of the Units, the Declarant, or its successor in interest, shall have the right to construct a model on any Unit with a sales office located therein to advertise, show and sell Units and Individual Residences to prospective purchasers. Declarant may also erect and maintain one sign on such Unit, advertising the model Individual Residence and sales office.

ARTICLE 5
COMMON WALL

Section 5.1 Common Wall. Any Building constructed on two or more Units shall have Common Walls and such Common Walls shall be subject to the following special terms and conditions:



5.1.1 That portion of the Common Wall situate on a Unit shall be owned by the Owner of such Unit as part of the Owner's fee simple ownership of the Unit. Each Unit Owner shall enjoy a common perpetual easement and right of use of that portion of the Common Wall located upon the adjoining Individual Residence.

5.1.2 Each Unit Owner shall have a perpetual right to use and enjoy the entire Common Wall as a Common Wall for the support, construction, maintenance and use of each Individual Residence.

Section 5.2 Rights of Association in Common Wall. The Association is granted, by the Owners of all Units upon which any Common Wall is situate, the following rights, duties and obligations as the attorney in fact and agent for each Unit Owner:

5.2.1 To at all times perform any necessary and desirablè maintenance, repairs, replacement or restoration of the Common Wall as may be required to keep the same structurally sound.

5.2.2 To keep in good repair and finish all exterior portions of the Common Wall including any roof or roof covering extending over and above any such Common Wall.

5.2.3 The Association is granted an easement and license sufficient in size and right as may be required by it to do and perform all necessary maintenance, repairs, restoration and replacement to the Common Wall.

5.2.4 In the event any required maintenance, repairs, restoration or replacement of any Common Wall causes any damage, injury or destruction to the interior of an Individual Residence, not caused by the negligence or failure to act of the Association, the Owner of such Individual Residence shall be responsible for the repair or replacement of any damage to the Individual Residence.

Section 5.3 Negligence of Owner. In the event that any damage or destruction is caused to a Common Wall by the negligence of the Owner of an Individual Residence or such Owner's failure to do and perform any obligation or duty imposed by such Owner by this Declaration, then the reasonable cost and expense of any required maintenance, repair, restoration or replacement of the Common Wall shall

be the liability of such Owner and if such cost and expense is not paid by such Owner, then the Association shall have the right to levy a special Townhome Assessment against the Unit of such Owner and the right to enforce such Townhome Assessment as provided in this Declaration.

ARTICLE 6
AUTHORITY OF ASSOCIATION

Section 6.1 Maintenance and Repair as a Townhome Common Expense. All maintenance, repairs and replacements of the exterior, roof, Landscaping and Common Wall of the Triplex Building shall be the Townhome Common Expense of all Unit Owners of the Association. Specifically, the Association has the responsibility, duty and obligation to:

6.1.1 At all times maintain the exterior of the Buildings in an attractive and quality condition and to at all times keep the exterior of all Buildings in the same condition and repair as when originally constructed.

6.1.2 At all times properly maintain and replace the roofs of all Buildings. In addition to all regular repairs and maintenance or replacements by the Association, the Association shall be responsible to replace a roof in its entirety when the Association determines that due to time and deterioration, such roof needs to be replaced in its entirety.

6.1.3 At all times care for and maintain all Landscaping.

6.1.4 Provided, however, in the event of any care, maintenance, repair and/or replacement is required due to the negligence, misuse or deliberate act of the Owner, the Owner's family, guests and invitees or tenants, then and in that event such expense shall be the liability of the Owner and charged to the Owner by the Association.

Section 6.2 Right of Access. The Association, its officers, agents, employees and contractors shall have the irrevocable right to access each Unit and the Individual Residence constructed on any Unit at all times and during any reasonable hour as may be necessary for the maintenance, repair, or replacement of the exterior, roof, or Common Walls of any Triplex Building, any utilities or any Common Walls for the purpose of making any repair, maintenance, replacement, or inspection thereof, whether regular or emergency, necessary for the



preservation and repair of the exterior, roof and party wall of any Unit.

Section 6.3 Damages. Any damage to all or part of a Building or a Unit resulting from any maintenance, repair, restoration, emergency repair or replacement caused by or at the direction of the Association as a part of the exercise of its rights hereunder, shall be a Townhome Common Expense of the Association; provided, however, that if such damage or destruction is caused by the negligence of the Owner of a Unit, his or her agents, employees, invitees or tenants, then such Owner shall be responsible and liable for all such damage and the cost thereof and the same shall be an obligation of the Owner and shall be payable upon demand to the Association.

Section 6.4 Restoration. Any damage to any Building or a Unit caused by the Association shall be restored substantially, to the extent reasonably practical, to the same condition in which such Improvements existed prior to such damage.

Section 6.5 Reconstruction of Individual Residence. In the event that any Individual Residence is destroyed in whole or in part due to fire or any other cause, the Owner shall immediately reconstruct, replace and rebuild such Individual Residence as it existed prior to such damage or destruction and in accordance with the Plans and Specifications for the original construction of the Triplex Building.

Section 6.6 Fire and Extended Coverage. The Owner of any Unit shall at all times maintain fire and extended coverage in an amount equal to the full replacement value of his Individual Residence, without deduction for depreciation, to the extent such insurance coverage is available for the Unit. The Association shall be named as an additional insured under such policy of insurance as its interest may appear. The Owner shall furnish to the Association current certificates of insurance verifying that such fire and extended coverage is in full force and effect. In the event that the Owner of any Unit shall fail to keep and maintain in full force and effect such fire and extended coverage, the Association shall have the right to obtain such insurance coverage as to the

Unit and assess the Owner for all costs to obtain such insurance.

ARTICLE 7
INTERIOR OF INDIVIDUAL RESIDENCE AND
PERSONAL PROPERTY

The Owner of a Unit shall be solely responsible to at all times properly maintain the interior of an Individual Residence on any Unit in the same condition as when constructed, reasonable wear and tear excepted. The Owner shall at all times be solely responsible for all personal property, furniture, fixtures and appliances within the Unit and the Association shall have no responsibility or liability therefore unless the same is damaged or destroyed due to the negligence of the Association, its agents and employees.

ARTICLE 8
CASTLE CREEK TOWNHOME ASSOCIATION

Section 8.1 Government of Association. Castle Creek Townhome Association, a Colorado nonprofit corporation, shall exercise all of the rights, duties, privileges powers and obligations as set forth in this Declaration and the Association Documents.

Section 8.2 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 Unit owned by such Owner, but all Persons owning each Unit shall be entitled to the rights of membership and the use and enjoyment appurtenant to the ownership of each Unit.

Section 8.3 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 Unit. Upon conveyance, sale or assignment of the Owner's interest, the selling Owner shall be relieved of liability for Townhome Assessments levied 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 8.4 Voting Rights. All Owners of a Unit shall be Members of the Association. Each Unit shall be entitled to one vote in the Association. The one vote for each Unit shall be exercised by the Owner and when more than one Person or entity holds an interest in a Unit, the vote for the Unit shall be exercised as the Unit Owners may determine among themselves, but the vote for the Unit shall be cast by only one Person.



Section 8.5 Compliance with Association Documents. Each Owner shall be governed by, shall comply with and shall have the benefit of the provisions, covenants, conditions and restrictions contained in the Association Documents.

Section 8.6 Rules and Regulations. The Association shall from time to time adopt, amend and repeal rules and regulations to be known as "Castle Creek Townhomes Rules and Regulations" governing, among other things, and without limitation:

8.6.1 Standards for the care, maintenance, and use of all Units, all Buildings, structures and Landscaping situate within the Property.

8.6.2 The maintenance, repairs and replacement of the exterior of all Buildings, including all walls, doors, windows, and exterior surfaces and roofs, and the Common Walls pertaining thereto.

8.6.3 All matters delegated to the Association by this Declaration.

8.6.4 All Landscaping and the maintenance thereof.

8.6.5 The regulation of noise, activities and usage of any Unit or Property within Castle Creek Townhomes.

8.6.6 The use of the Common Area and permitted activities within the Common Area.

8.6.7 The conservation, maintenance, repair and use of all buildings, structures, landscaping and uses within the Common Area.

8.6.8 The establishment of easements for recreational use, including walking, hiking, bicycling, and skiing. Provided, that no easement for such purpose shall be created or established upon any Unit without the consent of the Owner of such Unit.

8.6.9 Any exterior decorations, devices or personal property of any Unit or upon any Property within Castle Creek Townhomes.

ARTICLE 9
TOWNHOME ASSESSMENTS BY THE
ASSOCIATION

Section 9.1 Acceptance of Townhome Assessments.

Each Owner of a Unit, by acceptance of a Deed therefore, whether or not it shall be so expressed in any Deed, is deemed to covenant and agree to pay to the Association: (1) all Townhome Regular Assessments or charges pertaining to Castle Creek Townhomes; (2) any Townhome Special Assessments or charges pertaining to Castle Creek Townhomes; and (3) any Townhome Default Assessments or charges pertaining to Castle Creek Townhomes; all of which shall be fixed, established and collected as determined by the Association. The Townhome Regular, Special and Default Assessments, together with interest, costs and reasonable attorney fees, shall be a charge and continuing lien upon the Unit against which each such Townhome Assessment is made until paid. Each such Townhome Assessment, together with interest, costs and reasonable attorney fees, shall be the personal obligation of the Owner of such Unit at the time when the Townhome Assessment became due.

Section 9.2 Purposes of Townhome Regular Assessments. The Townhome Regular Assessments of Castle Creek Townhomes levied by the Association shall be limited to and used exclusively for the following:

9.2.1 The maintenance, repair and replacement of all of the exterior portion of any Building, the structural portions thereof, all Common Walls and including the doors, windows and roofs, water, sewer, or other utility service to any Building, and all exterior surfaces of any such Building.

9.2.2 The maintenance, repair or improvement of all Landscaping and lawns of any Unit.

9.2.3 Any costs and expenses pertaining to the operation of the Association in the performance of its duties.

9.2.4 All costs and expenses incurred by the Association in the performance of all of its duties and obligations under the Association Documents.

9.2.5 Any other purpose approved by a majority vote of all of the Unit Owner Members of the Association.

Section 9.3 Townhome Regular Assessments. The Board of Directors shall prepare a budget prior to the beginning of each fiscal year of the Association and



not less than thirty days prior to the commencement of each fiscal year, the Board shall adopt a final budget and shall determine, levy and assess the Association's Townhome Regular Assessments for the following year in accordance with the Colorado Common Interest Ownership Act as now existing or as the same may be amended, modified or changed.

Section 9.4 Townhome Special Assessments. In addition to the Townhome Regular Assessments set forth in Section 8.3 above, the Board of Directors may levy, in any fiscal year, one or more Townhome Special Assessments of Castle Creek Townhomes for the purpose of defraying, in whole or in part, the cost, fees and expenses of any maintenance, repairs, or replacements required to be done or performed by the Association or to make up any shortfall in the current year's budget. Such Townhome Special Assessment shall be assessed equally to each Unit Owner and shall be due and payable in the manner set forth in the Notice of such Townhome Special Assessments. Notice of the amount and due dates for such Townhome Special Assessments shall be sent to each Owner at least thirty days prior to the due date thereof.

Section 9.5 Townhome Reserve Funds. As a part of the Townhome Regular Assessments, the Association shall be obligated to establish:

9.5.1 A Townhome Reserve Fund of Castle Creek Townhomes for the maintenance, repair and replacement of the exterior of the exteriors and roofs of all Buildings and Individual Residences and Common Walls, water, sewer, or other utility services to any Building.

9.5.2 A Townhome Reserve Fund of Castle Creek Townhomes for any taxes or insurance required to be paid by the Association.

9.5.3 Such accounts may be interest-bearing accounts and shall be held in trust for the benefit of the Unit Owners for such purposes.

Section 9.6 Apportionment of Townhome Assessments. All Townhome Regular and Special Assessments shall be apportioned and allocated equally among all Units.

Section 9.7 Townhome Default Assessments. Any expense of the Association as to Castle Creek Townhomes that is the obligation of an Owner or which is incurred by the Association on behalf of the Owner, shall be a Townhome Default Assessment

and shall become a lien against such Owner's Unit and may thereafter be foreclosed or otherwise collected as provided herein. Notice of the amount and due date of such Townhome Default Assessment shall be sent to the Owner subject to such Townhome Default Assessment at least thirty days prior to the due date.

Section 9.8 Fiscal Year. The Townhome Assessments of the Association shall be computed and determined on a fiscal year basis.

Section 9.9 Payable Monthly. Townhome Assessments shall be payable monthly in advance on or before the tenth day of each month by the Owners of the Units unless the Association otherwise determines.

Section 9.10 Written Notice. The Association shall give written notice to the Owners of the Units of the Townhome Regular Assessments, and Townhome Special Assessments if any, and shall deliver to each Owner itemized statements on a periodic basis determined by the Association.

Section 9.11 Late Charges and Interest. If any such monthly payment is not paid within ten days after the date that it becomes due and payable, the Association may assess a "late charge" thereon in an amount not exceeding five percent (5%) of such statement to cover the extra costs and expense involved in handling such delinquent statement. In addition, the Association may provide that any Townhome Assessment shall bear interest at a rate of 1.5% per month from and after the date the statement becomes due and payable.

Section 9.12 Townhome Assessments of Declarant. During the period of development of the Property and until the construction of an Individual Residence and sale of a Unit by the Declarant the Townhome Assessments to be paid by the Declarant on such Unit shall be based upon the actual cost and expense required to maintain that Unit's share of the Common Expenses and shall not include any amounts necessary for contingencies, reserves or other funds not required for the cost of operating and maintaining the project on a day by day basis.

Section 9.13 Nonpayment of Townhome Assessments. Any Townhome Assessment, whether Regular, Special, or Default Townhome Assessment, which is not paid within thirty days of its due date shall be deemed delinquent. In the event that any Townhome Assessment becomes delinquent, the



Association, in its sole discretion, may take any or all the following actions:

9.13.1 Assess a late charge of not more than 5% of the amount due and owing per each delinquency.

9.13.2 Assess an interest rate charge from the date of delinquency at the rate 1.5% per month, or such other rate as shall be established by the Board of Directors.

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

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

9.13.5 File a Statement of Lien with respect to the Unit 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 Unit, setting forth the name of the Owner, the legal description of the Unit, the name of the Association and the amount of the delinquent Townhome Assessments then owing, which Statement of Lien shall be signed and acknowledged by the President, Vice President or Secretary of the Association and which shall be sent by certified mail, postage prepaid, to the Owner of the Unit at the latest address the Association may have in its records as to the Owner. 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 under the statutes of the State of Colorado. Such Statement of Lien shall secure all Townhome Assessments accruing or assessed subsequent to the date of recording of such Statement of Lien until the same have been satisfied and released, together with the Association's attorney fees and costs incurred in the preparation and recording of such Statement of Lien and any release thereof. In any action for the payment or foreclosure of such Townhome Assessment, the Association shall be entitled to recover as part of the action, the interest, costs and reasonable attorney fees with respect to the action.

9.13.6 The Statement of Lien shall be superior to all other liens and encumbrances on

such Unit, except only any tax and assessment liens levied by any government entity and the lien of any First Mortgage. Provided, however, 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 9.14 Successor's Liability for Townhome Assessment. In addition to the personal obligation of each Owner of a Unit to pay all Townhome Assessments and the Association's lien on a Unit for such Townhome Assessments, all successors to the ownership of a Unit shall be jointly and severally liable with the prior Owner for any and all unpaid Townhome Assessments, interest, costs, expenses and attorney fees against such Unit.

Section 9.15 Owner's Obligation for Payment of Townhome Assessments. The amount of the Townhome Common Expenses assessed against each Unit shall be the personal and individual debt of the Unit Owner or Unit Owners thereof at the time the Townhome Assessment is made. Suit to recover a money judgment for such unpaid debt shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may exempt himself from the liability for his contribution towards the Townhome Common Expenses by waiver of the use or enjoyment of any of the Common Areas or abandonment of his Unit.

ARTICLE 10
RIGHTS, DUTIES, PRIVILEGES AND
OBLIGATIONS OF OWNER

Section 10.1 Duties and Limitations of Owner. The following limitations shall apply to the rights of any Owner:

10.1.1 No exterior addition or alteration to any Unit or Building nor any fence, wall, structure, landscaping, grading, deck, patio, decorative devices or other Improvements shall be constructed, allowed or maintained on any Unit without the prior written approval of the Association.

10.1.2 No change in any exterior color or material shall be made without the prior written approval of the Association.

10.1.3 No exterior mounted radio, television or other communication antenna or device shall



be located on the exterior of any Building without the prior written approval of the Association.

10.1.4 No clotheslines or incinerators shall be permitted on any Unit.

10.1.5 The storage of all equipment, furniture, tools and personal property shall be appropriately stored indoors unless in use by Owner.

10.1.6 No house trailer, travel trailer, camping trailer, motor home, camper, boat, trailer, recreational vehicle, truck, except pickup or van, motorcycle, motorbike or any similar type vehicle or device shall be parked, stored or maintained on any Unit unless within the Garage of the Unit. No street, alley or public access of any Unit within Castle Creek Townhomes shall be used for long term parking or storage of any such recreational device, vehicle or trailer. The driveway or access to the Garage of any Building may be used for the temporary parking of any motor vehicle of the Owner or the Owner's guests and invitees, including construction trailers and vehicles during the construction or repair of a Building on the Unit.

10.1.7 No signs of any type or kind shall be placed or displayed on any Unit without the prior written approval of the Association and the Town of Mt. Crested Butte, except for the rights of the Declarant under Section 12.7.

ARTICLE 11
PROPERTY FOR COMMON USE

Section 11.1 Dedication of Common Areas. Declarant hereby dedicates and conveys all Common Areas shown on the Plat to the Association.

Section 11.2 Property for Common Use. The Association may acquire and hold for the use and benefit of all of the Unit Owners within Castle Creek Townhomes, real and personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be owned by the Association on behalf of all Unit Owners and shall not be transferable except with a transfer of a Unit. A conveyance of a Unit shall transfer to the grantee ownership of the grantor's beneficial interest in all such Property acquired and held by the Association.

ARTICLE 12
RESERVATION OF DEVELOPMENT RIGHTS
AND OTHER SPECIAL DECLARANT RIGHTS

Section 12.1 Reservation of Development Rights. The Declarant reserves the following Development Rights:

12.1.1 The right by amendment to this Declaration or the Plat to create Units, Common Elements, and Limited Common Elements in the locations identified on the Plat.

12.1.2 The right to construct utility lines, pipes, wires, ducts, conduits, and other facilities across any portion of the Property for the purpose of furnishing utility and other services to Buildings and Improvements now located on or to be constructed on the Property. The Declarant also reserves the right to withdraw and grant easements and licenses to public utility companies and to convey Improvements within those easements anywhere in the Common Interest Community not occupied by Buildings, for the purposes mentioned above.

12.1.3 The right, by amendment, to subdivide Units in the areas identified on the Plat, and the remaining portions of Units after partial subdivision, into Units, Common Elements and Limited Common Elements.

12.1.4 The right to amend the Townhome Declaration and/or the Plat as provided in 16.3.

12.1.5 To change the design and size of any Townhome to be constructed on any Unit by the Declarant so long as the design and size of the Townhome is compatible with existing Townhomes.

12.1.6 To change the location of the individual Units, Common Area, streets and parking areas to be platted as part of any subsequent phase of Castle Creek Townhomes including the right to change the type, size, location and number of Units or structures to be constructed therein, and the number of Townhomes whether detached or with party walls, that may be constructed upon any Unit.

Section 12.2 Limitations on Development Rights. The Development Rights reserved in Section 12.1 are limited as follows:



12.2.1 The Development Rights may be exercised at any time, but not more than twenty-five (25) years after the recording of the initial Declaration;

12.2.2 Not more than three (3) Units may be created under the Development Rights;

12.2.3 All Units and Common Elements created pursuant to the Development Rights will be restricted to the same uses and to the same extent as the Units created under this Declaration as initially recorded; and

Section 12.3 Phasing of Development Rights. No assurances are made by the Declarant as to whether the Declarant will exercise its Development Rights or the order in which such Development Rights will be developed. The exercise of Development Rights as to some portions of the Property will not obligate the Declarant to exercise them as to other portions.

Section 12.4 Special Declarant Rights. The Declarant reserves the following Special Declarant Rights, to the maximum extent permitted by law, which may be exercised, where applicable, anywhere within the Common Interest Community:

12.4.1 to complete any Improvements indicated on the Plat;

12.4.2 to exercise a Development Right reserved in the Declaration;

12.4.3 to maintain sales offices, management offices, signs advertising the Common Interest Community, and models;

12.4.4 to use easements through the Common Elements and Units for the purpose of making Improvements within the Common Interest Community; and

12.4.5 to appoint or remove an officer of the Association or an Executive Board member during the maximum period of Declarant control subject to the provisions of Section 12.9 of this Declaration and the Colorado Common Interest Ownership Act, as now in effect and as same may be amended or revised.

Section 12.5 Models, Sales Offices and Management Offices. As long as the Declarant is a Unit Owner, the Declarant, its duly authorized agents, representatives, and employees may maintain any Unit owned by the Declarant or any

portion of the Common Elements as a model, sales office, or management office. In addition, during periods of construction, Declarant may maintain a construction trailer on the Common Elements.

Section 12.6 Construction; Declarant's Easement. The Declarant reserves the right to perform warranty work, repairs, and construction work on Units and Common Elements, to store materials in secure areas, and to control and have the right of access to work and repairs until completion. All work may be performed by the Declarant without the consent or approval of the Executive Board. The Declarant has an easement through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights, whether arising under the Act or reserved in this Declaration. This easement includes the right to convey access, utility, and drainage easements to utility providers, the County of Gunnison, and/or the State of Colorado.

Section 12.7 Signs and Marketing. The Declarant reserves the right to post and maintain signs and displays on Units owned by Declarant and in the Common Elements in order to promote sales of Units. Declarant also reserves the right to conduct general sales activities in a manner which will not unreasonably disturb the rights of Unit Owners.

Section 12.8 Declarant's Property. The Declarant reserves the right to remove and retain all its property and equipment used in the sales, management, construction, and maintenance of the Property, whether or not they have become fixtures.

Section 12.9 Declarant Control of the Association.

12.9.1 Subject to Subsection 12.9.1.2, there shall be a period of Declarant control of the Association, during which a Declarant, or Persons designated by the Declarant, may appoint and remove the officers of the Association and Members of the Executive Board. The period of Declarant control shall terminate no later than the earlier of:

12.9.1.1 60 days after conveyance of 75 percent of the Units that may be created in the Common Interest Community to Unit Owners other than a Declarant; or

12.9.1.2 two years after the last conveyance of a Unit by the Declarant in the ordinary course of business; or



12.9.1.3 two years after any right to add new Units was last exercised.

Section 12.10 Voluntary Surrender. A Declarant may voluntarily surrender the right to appoint and remove officers of the Association and Members of the Executive Board before termination of the period described above. In that event, the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

12.10.1 Not later than 60 days after conveyance of 25 percent of the Units that may be created to Unit Owners other than a Declarant, at least one Member and not less than 25 percent of the Members of the Executive Board shall be elected by Unit Owners other than the Declarant. Not later than 60 days after conveyance of 50 percent of the Units that may be created to Unit Owners other than a Declarant, not less than 33-1/3 percent of the Members of the Executive Board must be elected by Unit Owners other than the Declarant.

12.10.2 Not later than the termination of any period of Declarant control, the Unit Owners shall elect an Executive Board of at least three Members, at least a majority of whom shall be Unit Owners. If any Unit is owned by a partnership, limited liability company, corporation, or similar entity, any officer, partner, manager, member, or employee of that Unit Owner shall be eligible to serve as a Member of the Executive Board and shall be deemed to be a Unit Owner for the purposes of the preceding sentence. The Executive Board shall elect the officers. The Executive Board Members and officers shall take office upon election.

12.10.3 Notwithstanding any provision of this Declaration or the Bylaws to the contrary, following notice under C.R.S., §38-33.3-308, the Unit Owners, by a vote of 67 percent of all Unit Owners present and entitled to vote at a meeting of the Unit Owners at which a quorum is present, may remove a Member of the Executive Board with or without cause, other than a member appointed by the Declarant.

Section 12.11 Limitations on Special Declarant Rights. Unless terminated earlier by an amendment to this Declaration executed by the Declarant, any Special Declarant Right may be exercised by the

Declarant until the earlier of the following: as long as the Declarant (a) is obligated under any warranty or obligation; (b) holds a Development Right to create additional Units or Common Elements; (c) owns any Unit; (d) owns any Security Interest in any Units; or (e) twenty-five (25) years have elapsed after recording of this Declaration. Earlier termination of certain rights may occur by statute.

Section 12.12 Interference with Special Declarant Rights. Neither the Association nor any Unit Owner may take any action or adopt any Rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

ARTICLE 13
REGISTRATION BY OWNER OF MAILING ADDRESS

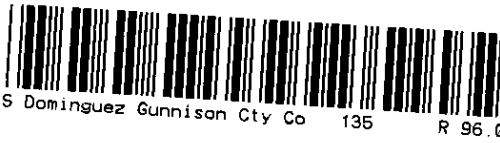
Section 13.1 Registration of Mailing Address. Each Owner shall register his mailing address with the Association, and except for monthly statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands or other notices intended to be served upon the Association shall be sent by certified mail, postage prepaid, to the address of the Association.

Section 13.2 Certified or Registered Mail. All notices or demands intended to be served shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address.

Section 13.3 Single Address for Mailing. In the event any Unit is owned by more than one Person, or by a partnership, joint venture, corporation, or other such entity, the Unit Owners thereof shall designate to the Association in writing the name and address of the agent of the Owner to whom all legal or official Assessments, liens, levies or other such notices may be properly and lawfully mailed, and upon failure to so designate an agent, the Association shall be deemed to be the agent for receipt of notices to such Unit Owners.

ARTICLE 14
PRINCIPLES OF INTERPRETATION

Section 14.1 Validity. 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 14.2 Context of Words. 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 14.3 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 14.4 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 14.5 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 Townhome Declaration for Castle Creek Townhomes 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 Articles of Incorporation and Bylaws of the Association.

Section 14.6 Severability. This Townhome Declaration for Castle Creek Townhomes, to the extent possible, shall be construed so as to give validity to all of the provisions hereof. If any provision of this Townhome Declaration for Castle Creek Townhomes 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 14.7 Attorney Fees. If any legal action is commenced or maintained in court, whether in law or in equity, as to the interpretation, enforcement, construction or the determination of the rights and duties of the parties to this Townhome Declaration for Castle Creek Townhomes or any provision of the

Association Documents provided herein, the prevailing party in any such action shall be awarded its reasonable attorney fees together with all reasonable costs and expenses incurred in such action.

Section 14.8 Applicable Law. The proper jurisdiction and venue for any action pertaining to the interpretation or enforcement of the Association Documents shall be the District Court of Gunnison County, Colorado, unless otherwise chosen by the Association and shall be interpreted, construed and governed by the laws of the State of Colorado.

Section 14.9 Interest. Unless otherwise provided in this Townhome Declaration for Castle Creek Townhomes, any sums, amounts or monies due and owing to the Association under the Association Documents shall bear interest at 18% per year from the date due until paid.

ARTICLE 15
ENFORCEMENT OF COVENANTS

Section 15.1 Violations Deemed a Nuisance. Every violation of this Townhome Declaration for Castle Creek Townhomes, 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 15.2 Failure to Comply. The failure to comply with this Declaration or any Rules and Regulations adopted by the Board of Directors shall be grounds for an action to recover damages, or for injunctive relief or for specific performance, or any of them under the following terms and conditions:

15.2.1 Written notice of any violation or failure to comply with this Declaration or any Rules and Regulations adopted by the Board of Directors shall first be given to any Member or Person as to such violation or failure to comply.

15.2.2 Such Member or Person shall be given 10 days from the date of such notice to correct such violation or failure to comply.

15.2.3 In the event that any Member or Person believes that he or she is not in violation or failure to comply, he or she may request an opportunity for a hearing by the Board of Directors prior to the Association taking further



action or commencing any legal proceeding against such Member or Person.

15.2.4 Any action by the Association as against any such Member or Person shall be by resolution of the Board of Directors following notice as above provided and granting to such Member or Person an opportunity to be heard before the Board of Directors.

Section 15.3 Who May Enforce. Any action to enforce any violation of any provision of these Protective Covenants may be brought as follows:

15.3.1 By the Association in name of the Association and on behalf of the Owners.

15.3.2 By the Owner of any Unit.

Section 15.4 No Waiver. The failure of the Board, the Association or an 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.

ARTICLE 16
DURATION OF COVENANTS

Section 16.1 Term. The term of this Townhome Declaration for Castle Creek Townhomes, and any amendments or supplements thereto, shall be from the date of recording in the records of Gunnison County, Colorado and until January 1, 2054. Thereafter, this Townhome Declaration for Castle Creek Townhomes shall be automatically renewed for successive periods of ten years each, unless otherwise terminated or amended as hereafter provided.

Section 16.2 Amendment. This Townhome Declaration for Castle Creek Townhomes, or any provision thereof, may only be terminated, extended, modified or amended as to the Property subject to this Declaration or any portion thereof, upon the written consent by the Owners of 67% or more of the Units in the Property and upon the written consent of the Board of Directors of the Castle Creek Townhomes Association. 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 Units within the Property.

Section 16.3 Amendment by Declarant. Notwithstanding the provisions of Section 15.2, the Declarant reserves the sole right and power to modify and amend this Townhome Declaration for Castle Creek Townhomes, and all Plats subject to this Townhome Declaration for Castle Creek Townhomes, by executing and recording such amendment in the records of Gunnison County, Colorado. Such right or power of the Declarant is limited to (1) the correction of any typographical or language errors in this Townhome Declaration for Castle Creek Townhomes, (2) any corrections required to comply with the applicable laws, rules and regulations of any governmental entity having jurisdiction over the Property, and (3) any changes or corrections required to reasonably satisfy the requirements of any commercial lender to provide financing for the purchase and/or construction of a Unit upon any Unit, which are not contrary to the terms of the agreement. This right and power of the Declarant to modify or amend this Townhome Declaration for Castle Creek Townhomes and the Plats, in whole or in part, as set forth in this Section 16.3, shall be effective only until (1) five years after the date of construction of the first Improvements on the Property or (2) the date that 75% of all Units within the Property have been sold or conveyed to third person owners by the Declarant, whichever occurs first. Provided, however, the Declarant may not amend or revise the location and dimensions of any Unit which has been conveyed by Declarant to another Owner, without the consent of such Owner.

IN WITNESS WHEREOF, the Declarant has executed this Declaration the date first above written.

CLOUDBREAK, LLC, a Colorado limited liability company

By: Kenneth D. Cloud by Rosemary S. Cloud as attorney in fact
Name: Kenneth D. Cloud
Title: General Manager



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STATE OF COLORADO)
) ss.
County of Gunnison)

The foregoing Townhome Declaration for Castle Creek Townhomes has been acknowledged before me this 10th day of December, 2004, by Kenneth D. Cloud as General Manager of Cloudbreak, LLC, a Colorado limited liability company, by Rosemary S. Cloud, attorney in fact

Witness my hand and official seal.

My commission expires: 05/13/2008

Lori Clement
Notary Public

