

**DECLARATION OF MASTER DEED RESTRICTION
AND AGREEMENT CONCERNING THE SALE, OCCUPANCY AND RESALE OF
PROPERTY WITHIN BLOCK G, PHASE I, RIVER VALLEY RANCH, ALSO
KNOWN AS THE THOMPSON CORNER COMMON INTEREST COMMUNITY**

THIS DECLARATION OF MASTER DEED RESTRICTION AND AGREEMENT CONCERNING THE SALE, OCCUPANCY AND RESALE OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY KNOWN AS BLOCK G, PHASE I, RIVER VALLEY RANCH ("Agreement") is made and entered into this 15th day of December 1997, by Crystal River Limited Partnership, a Delaware limited partnership (hereinafter referred to as "Declarant"), for the benefit of the parties and enforceable by the Carbondale Housing Authority ("CHA"), a duly constituted housing authority established pursuant to Colorado law.

RECITALS AND DEFINITIONS

WHEREAS, Declarant is in the process of developing and platting certain real property as a residential community and desires to set aside a portion of such property, known as the Thompson Corner Common Interest Community, for the purpose of providing affordable housing for residents within the Town of Carbondale, Colorado (hereinafter the "Town"); and

WHEREAS, Declarant owns the real property described on Exhibit "A" attached hereto and incorporated herein by this reference, and for purposes of this Agreement, such real property and all dwellings, appurtenances, improvements and fixtures associated therewith shall hereinafter be referred to as the "Property"; and

WHEREAS, the Declarant as part of the process of subdividing the Property has agreed to make and enter into this Agreement; and

WHEREAS, the Declarant has or will enter into one or more business relationships with a general contractor experienced in the construction of residential dwelling units (hereinafter the "Home Construction Entity") with the intention of conveying the Property to the Home Construction Entity which will then construct residential housing units upon the lots within the Property, which lots together with all improvements thereon and appurtenances thereto, shall hereinafter be referred to as "Units"; and

WHEREAS, after completion of construction of the homes, each Unit, together with the completed homes and other improvements thereon and appurtenances thereto, shall be conveyed to "Qualified Buyers" as that term is defined in this Agreement; and

WHEREAS, the term "Qualified Buyers", as used herein, are natural persons meeting the income, residency and all other qualifications set forth in the Carbondale Housing Authority's Affordable Housing Guidelines ("the Affordable Housing Guidelines"), or its substitute, as



Return to Lawrence R. Green
P.O. Drawer 790
Glenwood Springs, CO 81602

5-1-1998

adopted by the CHA, or its successor, and in effect at the time of the closing of the sale of a Unit to Qualified Buyers, who must represent and agree pursuant to this Agreement to occupy the Unit as their sole place of residence, not engage in any business activity within the Unit other than that permitted in that zone district or by applicable ordinance, and not sell or otherwise transfer the Unit for use in a trade or business; and

WHEREAS, the term "Owner", as used herein shall mean the person(s) who acquire an ownership interest in a Unit in compliance with the terms and provisions of this Agreement, it being understood that such person(s) shall be deemed an "Owner" hereunder only during the period of his, her or their ownership interest in the Unit and shall be obligated hereunder for the full and complete performance and observance of all covenants, conditions and restrictions contained herein during such period. It is expressly understood that the term "Owner" as used in this Agreement does not include either the Declarant or the Home Construction Entity.

NOW, THEREFORE, for value received, the receipt and sufficiency of which is hereby acknowledged, Declarant hereby represents, covenants and agrees as follows:

SECTION I
DECLARATION

1.1 For the purposes set forth above and herein, Declarant, for itself and its successors and assigns, hereby declares that the Property, and each Unit within the Property, shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, improved, altered and enjoyed subject to the covenants, conditions, restrictions, privileges, rights and other provisions herein set forth, for the duration hereof, and all of which shall run with the land and be binding upon all Owners, occupants and other persons having or acquiring any right, title or interest in or to the Property or any Unit thereof, and their respective heirs, personal representatives, successors and assigns and shall be binding upon and inure to the benefit of the Town and CHA, and their respective successors and assigns. All persons who purchase Units shall be Qualified Buyers, as such term is defined in this Declaration.

1.2 Declarant hereby agrees to restrict the acquisition or transfer of the Units to Qualified Buyers, as that term is defined in this Agreement, who fall within the qualifications and income range established and adopted by the CHA from time to time in its Affordable Housing Guidelines. In addition, Declarant agrees that this Agreement shall constitute a resale agreement setting forth the maximum resale price for which the Units may be sold ("Maximum Resale Price"), the amount of appreciation and the terms and provisions controlling the resale of the Units. Declarant restricts the Property and Units against use and occupancy inconsistent with the terms of this Agreement.

1.3 By the acceptance of any deed conveying any Unit therein, the grantee of such deed shall accept all of the terms, conditions, limitations, restrictions and uses contained

in this Agreement. In addition, prior to the delivery of a deed conveying any Unit to a grantee, such grantee shall execute a Memorandum of Acceptance evidencing grantee's acknowledgement and agreement to the terms, conditions, limitations, restrictions and uses contained in this Agreement.

1.4 Notwithstanding any provision of this Agreement to the contrary, it is expressly agreed and acknowledged that the terms, conditions and restrictions of this Agreement shall not apply to the initial transfer of the Property or any Unit contained therein from Declarant to the Home Construction Entity; provided, however that the instrument of conveyance between Declarant and the Home Construction Entity shall specifically identify the grantee therein as being a Home Construction Entity within the ambit of the provisions of this paragraph 1.4. Furthermore, the terms, conditions and restrictions of this Agreement with respect to the use and occupancy of the Property or any Unit thereof shall not apply to Declarant or to the Home Construction Entity during their ownership thereof prior to the initial transfer of any Unit to a Qualified Buyer as provided herein; provided, however, that the Home Construction Entity shall make no transfer of any Unit except to a Qualified Buyer as defined in this Agreement.

1.5 Notwithstanding any provision of this Agreement to the contrary, in order to facilitate provision of affordable housing in the Town of Carbondale, it is expressly agreed and acknowledged that the CHA, or the Town as an agent of the CHA, may acquire and transfer the Unit(s) to Qualified Buyer(s) as that term is defined herein or rent the Unit(s) to qualified tenants who meet the income, occupancy and all other qualifications established by the CHA in its Affordable Housing Guidelines until a sale to a Qualified Buyer is effected.

SECTION 2
USE AND OCCUPANCY OF PROPERTY

2.1 Except as otherwise provided herein, the use and occupancy of any Unit shall henceforth be limited exclusively to housing for natural persons who meet the definition of Qualified Buyer(s) and their families.

2.2 An Owner, in connection with the purchase of a Unit, must: (a) occupy the Unit within this Property as his or her sole place of residence during the time that such Unit is owned; (b) not engage in any business activity on or in such Unit, other than permitted in that zone district or by applicable ordinance; (c) sell, convey, or otherwise transfer such Unit only in accordance with this Agreement and the Affordable Housing Guidelines.

2.3 It shall be a breach of this Agreement for an Owner who defaults in payments or other obligations due or to be performed under a promissory note secured by a first lien

deed of trust or mortgage encumbering a Unit to not notify the CHA, in writing, of any notification received from a lender, or its assigns, of past due payments or default in payment or other obligations due or to be performed under a promissory note secured by a first lien deed of trust or mortgage, as described herein, within five (5) calendar days of Owner's notification from lender, or its assigns, of said default or past due payments.

2.4 Upon receipt of notice as provided in subsection 2.3, CHA shall have the right, in its sole discretion, and with the agreement of the Owner, to cure the default or any portion thereof. In such event, the Owner shall be personally liable to CHA for past due payments made by the CHA together with interest thereon at the rate specified in the existing promissory note(s) secured by the first lien deed of trust or mortgage, and all actual expenses of the CHA incurred in curing the default. The Owner shall be required by CHA to execute a promissory note secured by a deed of trust encumbering the Unit in favor of the CHA for the amounts expended by the CHA as specified herein, including future advances made for such purposes. The Owner may cure the default and satisfy its obligation to the CHA under this subsection at any time prior to execution of a contract for sale, upon such reasonable terms as specified by the CHA and, if applicable, any such satisfaction shall comply with Fannie Mae's community seconds program requirements. Otherwise, an Owner's indebtedness to the CHA shall be satisfied from the Owner's proceeds at closing.

SECTION 3 SALE OF UNIT: MAXIMUM RESALE PRICE

3.1 In the event that an Owner desires to sell his Unit the Owner shall consult with CHA, or its agent, to review the requirements of this Agreement, including the method for determining the Maximum Resale Price. Following approval of the Maximum Resale Price by CHA, the Owner may list or advertise such Unit for sale, in accordance with the requirements of the Affordable Housing Guidelines, for a sales price not exceeding the Maximum Resale Price. If Fannie Mae or similar financing (as solely determined by CHA) is used, there may be a fee charged by CHA based on the amount financed. The amount of such fee is to be paid by the borrower and shall be set forth in the current Affordable Housing Guidelines and will be distributed to the CHA Mortgage Fund Account.

3.2 In no event shall a Unit be sold for an amount in excess of the Maximum Resale Price.

- a. In order to determine the Maximum Resale Price, the Base Resale Price shall first be determined.
- b. In order to calculate the Base Resale Price, the Owner's purchase price shall be divided by the Consumer Price Index, All Items, U.S. City Average, Urban Wage Earners and Clerical Workers (Revised), published by the U.S.

Department of Labor, Bureau of Labor Statistics ("Consumer Price Index") published at the time of Owner's purchase as stated on the settlement sheet, multiplied by the Consumer Price Index current at the date of intent to sell. In no event shall the multiplier be less than one (1). For the purposes of this subsection, "date of intent to sell" shall be the date of execution of a listing contract, or if a listing contract is not used, the date shall be the date when the Unit is first offered for sale. In no event shall the Base Resale Price be less than the Owner's purchase price, plus an increase of three percent (3%) of such price per year from the date of purchase to the date of Owner's notice of intent to sell; nor greater than the Owner's purchase price, plus an increase of five percent (5%) of such price per year from the date of purchase to the date of Owner's notice of intent to sell, prorated for each whole month for any part of the year.

c. The Base Resale Price, as calculated above, shall then be added to the cost of Permitted Capital Improvements as defined in this Section in order to determine the Maximum Resale Price.

NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION OR GUARANTEE BY THE DECLARANT, CIA OR THE TOWN OF CARBONDALE THAT UPON RESALE THE OWNER SHALL OBTAIN THE MAXIMUM OR THE BASE RESALE PRICE.

3.3 For the purpose of determining the Maximum Resale Price in accordance with this Section, the Owner may add to the Base Resale Price specified in subsection 3.2 above, the cost of Permitted Capital Improvements, as defined in Exhibit "B", attached hereto and incorporated herein by this reference. Except as otherwise provided in this subsection, the total cost of Permitted Capital Improvements shall not exceed twenty percent (20%) of the initial sales price of each Unit. In calculating such amount, only those Permitted Capital Improvements identified on Exhibit "B" shall qualify for inclusion. All such Permitted Capital Improvements installed or constructed over the life of the Unit shall qualify. However, the allowance permitted by this subsection is a fixed amount, which shall be calculated on a cumulative basis applicable to the Owner and all subsequent purchasers, and shall not exceed the maximum amount set forth in this subsection 3.3. Notwithstanding the foregoing, the actual cost of constructing a garage, a storage unit, or deck shall not be subject to or calculated in the maximum amount allowed for Permitted Capital Improvements; provided, that such improvements and cost are reviewed and approved by CIA prior to construction.

3.4 Permitted Capital Improvements shall not include any changes or additions to the Unit made by the Owner during construction or thereafter, except in accordance with subsection 3.3 above. Permitted Capital Improvements, except garages and basements, shall not be included in the initial purchase price of a Unit, even though made or installed during original construction.

3.5 In order to qualify as Permitted Capital Improvements, the Owner must furnish to the CHA the following information with respect to the improvements which the Owner seeks to include in the calculation of Maximum Resale Price:

- a. Original or duplicate receipts to verify the actual costs expended by the Owner for the Permitted Capital Improvements; and
- b. Owner's affidavit verifying that the receipts tendered are valid and correct; and
- c. True and correct copies of any building permit or certificate of occupancy required to be issued by the Town with respect to the Permitted Capital Improvements.

3.6 For the purpose of determining the Maximum Resale Price in accordance with this Section, the Owner may also add to the amounts specified in subsections 3.2 and 3.3, the cost of any permanent improvements constructed or installed as a result of any requirement imposed by any governmental agency, provided that written certification is provided to the CHA of both the applicable requirement and the information required by subsection 3.5.

3.7 In calculating the costs under subsection 3.3 and 3.6 only the Owner's actual out-of-pocket costs and expenses shall be eligible for inclusion. Such amount shall not include an amount attributable to Owner's "sweat equity" or to any appreciation in the value of the improvements.

3.8 An Owner shall not permit any prospective buyer to assume any or all of the Owner's customary closing costs nor accept any other consideration which would cause an increase in the purchase price above the bid price so as to induce the Owner to sell to such prospective buyer.

3.9 Prior to Owner entering into a sales contract for the sale of his Unit to a prospective buyer, such potential buyer shall be qualified by CHA pursuant to the requirements of the Affordable Housing Guidelines then in effect. Documented proof of qualification shall be provided by the potential buyer, as requested by Thompson Corner Homeowner's Association or CHA, prior to purchase. An Owner shall not enter into a sales contract for the sale of his Unit with any person other than a Qualified Buyer and such contract shall not provide for a sales price greater than the Maximum Resale Price established in accordance with this Section. The Owner may reject any and all offers; provided however, offers in excess of the Maximum Resale Price shall be rejected.

3.10 In the event that title to a Unit vests in individuals or entities who are not Qualified Buyers as that term is defined herein, (hereinafter referred to as "Non-Qualified Transferee(s)"), and such individuals are not approved as Qualified Buyers within thirty (30) days after obtaining title to the Unit, in the manner described in this Section, the Unit shall immediately be listed for sale or advertised for sale by the Non-Qualified

Transferee(s) in the same manner as provided for Owners in subsection 3.1 above; provided such action does not otherwise conflict with applicable law. The highest bid by a Qualified Buyer, for not less than ninety-five percent (95%) of the Maximum Resale Price or the appraised market value, whichever is less, which satisfies all obligations under any existing first lien deed of trust or mortgage, shall be accepted. If all such bids are below the lesser of ninety-five percent (95%) of the Maximum Resale Price or the appraised market value, the Unit shall continue to be listed for sale or advertised for sale by the Non-Qualified Transferee(s) until a bid in accordance with this subsection is made, which bid must be accepted. The cost of any appraisal shall be paid by the Non-Qualified Transferee(s). In the event the Non-Qualified Transferee(s) elect to sell the Unit without the assistance of a real estate broker or agent, such Non-Qualified Transferee(s) shall advertise the subject Unit for sale in a manner approved by CHA and shall use due diligence and make all reasonable efforts to accomplish the sale of the Unit. In the event CHA finds and determines that such Non-Qualified Transferee(s) have failed to exercise such due diligence, CHA may require the Non-Qualified Transferee(s) to execute a standard listing contract on forms approved by the Colorado Real Estate Commission, or its successor, with a licensed real estate broker or agent.

- a. Non-Qualified Transferee(s) shall join in any sale, conveyance or transfer of the Unit to Qualified Buyer(s) and shall execute any and all documents necessary to effect such conveyance.
- b. Non-Qualified Transferee(s) shall not: (1) occupy the Unit; (2) rent all or any part of the Unit, except in strict compliance with Section 5 hereof; (3) engage in any other business activity on or in the Unit; (4) sell, convey or otherwise transfer the Unit except in accordance with this Agreement and the Affordable Housing Guidelines; or (5) sell or otherwise transfer the Unit for use in a trade or business.
- c. Where the provisions of this subsection 3.10 apply, the CHA may require the Non-Qualified Transferee(s) to rent the Unit in the same manner as provided for Owners in Section 5, below.
- d. Until sale to a Qualified Buyer is effected, Non-Qualified Transferee(s) shall comply with all obligations of Owners set forth in this Agreement

SECTION 4
OWNER RESIDENCY REQUIRED

- 4.1 Each Unit shall be utilized only as the sole and exclusive place of residence of an Owner.
- 4.2 In the event an Owner ceases to utilize a Unit as his sole and exclusive place of residence, the Unit shall be offered for sale pursuant to the provisions of subsection 3.10

of this Agreement. The Owner shall be deemed to have ceased utilizing the Unit as his sole and exclusive place of residence by becoming a resident elsewhere or by residing on the Unit for fewer than nine (9) months per calendar year without the express written approval of the CHA. Where the provisions of this subsection 4.2 apply, the CHA may require the Owner to rent the Unit in accordance with the provisions of Section 5, below.

4.3 If at any time the Owner of a Unit also owns any interest alone or in conjunction with others in any developed residential property or dwelling unit(s), Owner agrees to immediately list or advertise said other property or unit(s) for sale and to sell Owner's interest in such property at a sales price comparable to like units or properties in the area in which the property or unit(s) are located. In the event said other property or unit has not been sold by Owner within one hundred twenty (120) days of its listing or advertisement for sale, then Owner hereby agrees to immediately offer the Unit subject to this Agreement for sale pursuant to the provisions of subsection 3.10 of this Agreement. It is understood and agreed between the parties hereto that, in the case of an Owner whose business is the construction and sale of residential properties or the purchase and resale of such properties, the properties which constitute inventory in such an Owner's business shall not constitute "other developed residential property" or "dwelling unit(s)" as those terms are used in this subsection 4.3.

SECTION 5
RENTAL OF UNIT

5.1 An Owner may not, except with prior written approval of the CHA, and subject to CHA's conditions of approval, rent the Unit. Prior to occupancy, any tenant must be approved by the Thompson Corner Homeowner's Association, if otherwise required, and the CHA in accordance with the income, occupancy and all other qualifications established by the CHA in its Affordable Housing Guidelines. The CHA shall not approve any rental if such rental is being made by Owner to utilize the Unit as an income producing asset, except as provided below, and shall not approve a lease with a rental term in excess of twelve (12) months. A signed copy of the lease must be provided to the CHA prior to occupancy by any tenant. The rental amount under any such lease approved by the CHA shall be "Owner's cost". "Owner's cost" as used herein, includes the monthly expenses for the cost of principal and interest payments, taxes, property insurance, homeowner's assessments, utilities remaining in Owner's name, plus an additional twenty dollars (\$20) per month and a reasonable (refundable) security deposit. The requirements of this subsection shall not preclude the Owner from sharing occupancy of a Unit with non-owners on a rental basis provided Owner continues to meet the obligations contained in this Agreement, including Section 4.

5.2 **NOTHING HEREIN SHALL BE CONSTRUED TO REQUIRE THE CHA TO PROTECT OR INDEMNIFY THE OWNER AGAINST ANY LOSSES ATTRIBUTABLE TO THE RENTAL, INCLUDING (NOT BY WAY OF LIMITATION) NON-PAYMENT OF RENT OR DAMAGE TO THE PREMISES;**

NOR TO REQUIRE THE CHA TO OBTAIN A QUALIFIED TENANT FOR THE OWNER IN THE EVENT THAT NONE IS FOUND BY THE OWNER.

SECTION 6
BREACH OF AGREEMENT; OPPORTUNITY TO CURE

6.1 In the event that CHA has reasonable cause to believe the Owner is violating the provisions of this Agreement, the CHA, by its authorized representative, may inspect a Unit between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, after providing the Owner with no less than 24 hours written notice.

6.2 The CHA, in the event a violation of this Agreement is discovered, may send a notice of violation to the Owner detailing the nature of the violation and allowing the Owner fifteen (15) days to cure. Said notice shall state that the Owner may request a hearing before CHA within fifteen (15) days to determine the merits of the allegations. If no hearing is requested and the violation is not cured within the fifteen (15) day period, the Owner shall be considered in violation of this Agreement. If a hearing is held before the CHA, the decision of the CHA based on the record of such hearing shall be final for the purpose of determining if a violation has occurred.

6.3 The failure of the CHA to insist upon the strict and prompt performance of any of the terms, conditions and restrictions of this Agreement shall not constitute or be construed as a waiver or relinquishment of the CHA's right or rights thereafter to enforce any term, condition or restriction and the same shall continue in full force and effect.

SECTION 7
REMEDIES

7.1 This Agreement shall constitute covenants running with the real property, described in Exhibit "A", as a burden thereon, for the benefit of, and shall be specifically enforceable by the CHA, the Town of Carbondale, and their respective successors and assigns, as applicable, by any appropriate legal action including but not limited to specific performance, injunction, reversion, or eviction of non-complying Owners and/or occupants.

7.2 In the event the parties resort to litigation with respect to any or all provisions of this Agreement, the prevailing party shall be entitled to recover damages and costs, including reasonable attorney's fees.

7.3 In the event of any sale, transfer or conveyance of the Property or any Unit thereof in violation of this Agreement, such sale, transfer or conveyance shall be wholly null and void and shall confer no title whatsoever upon the purported transferee(s). Each and every conveyance of the Property or Unit, for all purposes, shall be deemed to include and incorporate by this reference the covenants, conditions, limitations, and restrictions herein contained, even without reference therein to this Agreement.

7.4 In the event that the Owner or occupant fails to cure any breach, the CHA may resort to any and all available legal action, including, but not limited to, specific performance of this Agreement or a mandatory injunction requiring sale of the Unit by Owner as specified in subsection 3.10. The costs of such sale shall be taxed against the proceeds of the sale with the balance being paid to the Owner.

7.5 In the event of a breach of any of the terms or conditions contained herein by the Owner, his heirs, successors or assigns, the Owner's purchase price of the Unit as referred to in Section 3 of this Agreement shall, upon the date of such breach as determined by CHA, automatically cease to increase as set out in Section 3 of this Agreement, and shall remain fixed until the date of cure of said breach.

SECTION 8 FORECLOSURE

8.1 Except as may otherwise be specifically provided in a written, recorded Option to Purchase between a lender, CHA and a borrower, the form of which is attached hereto and incorporated herein by this reference as Exhibit "C", any purchaser acquiring any rights in the Property or a Unit by virtue of foreclosure of a lien shall be deemed to be a Non-Qualified Transferee subject to the provisions of Section 3.10 of this Agreement. In the event of a foreclosure, nothing herein shall be construed to create a release or waiver of the covenants, conditions, limitations and restrictions contained in this Agreement except upon the terms and conditions specified in that certain Option to Purchase, as referenced above. The Declarant expressly consents and agrees to the terms of that certain Option to Purchase; including, without limitation, the release provisions of paragraph d. The covenants, conditions, limitations and restrictions contained in this Agreement shall otherwise survive any foreclosure proceeding.

8.2 In the event that CHA or any agent of CHA, exercises the option pursuant to the terms of that certain Option to Purchase, as referenced above, the CHA and/or its agent, may sell the Unit(s) to Qualified Buyers as that term is defined herein, or rent the Unit(s) to qualified tenants who meet the income, occupancy and all other qualifications established by the CHA in its Affordable Housing Guidelines until sale to a Qualified Buyer is effected.

SECTION 9 GENERAL PROVISIONS

9.1 Notices. Any notice, consent or approval which is required to be given hereunder shall be given by mailing the same, certified mail, return receipt requested, properly addressed and with postage fully prepaid, to any address provided herein or to any subsequent mailing address of the party as long as prior written notice of the change of address has been given to the other parties to this Agreement. Said

notices, consents and approvals shall be sent to the parties hereto at the following addresses unless otherwise notified in writing:

To Declarant: Crystal River Limited Partnership
426 S. Main Street
Aspen, CO 81611

TO CHA: Carbondale Housing Authority
Attn: Carbondale Affordable Housing Corporation
1250 Hendrick Drive.
Carbondale, CO 81623

Carbondale Housing Authority
ATTN: Carbondale Affordable Housing
Corporation
with copy to: Town Manager
511 Colorado Avenue
Carbondale, CO 81623

TO OWNER: 1

9.2 Exhibits. All exhibits attached hereto (Exhibits "A", "B" and "C") are incorporated herein and by this reference made a part hereof.

9.3 Severability. Whenever possible, each provision of this Agreement and any other related document shall be interpreted in such a manner as to be valid under applicable law, but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of this Agreement or other related document.

9.4 Choice of Law. This Agreement and each and every related document is to be governed and construed in accordance with the laws of the State of Colorado.

9.5 Successors. Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the parties.

9.6 Section Headings. Paragraph or section headings within this Agreement are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

1 As set forth in a subsequent recorded Memorandum of Acceptance for each individual Unit.

9.7 Waiver. No claim of waiver, consent or acquiescence with respect to any provision of this Agreement shall be valid against any party hereto except on the basis of a written instrument executed by the parties to this Agreement. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

9.8 Gender and Number. Whenever the context so requires herein, the neuter gender shall include any or all genders and vice versa and the use of the singular shall include the plural and vice versa.

9.9 Personal Liability. Owner agrees that he or she shall be personally liable for any of the transactions contemplated herein.

9.10 Further Action. The parties to this Agreement, including any Owner, agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Agreement or any agreement or document relating hereto or entered into in connection herewith.

9.11 Modifications. The parties to this Agreement agree that any modifications of this Agreement shall be effective only when made by writings signed by the parties, approved by the Town, and recorded with the Clerk and Recorder of Garfield County, Colorado. Notwithstanding the foregoing, the CIA reserves the right to amend this Agreement unilaterally when deemed necessary to effectuate the purpose and intent of this Agreement, when such unilateral action does not materially impair an Owner or lender's rights under this Agreement, and when such amendment has been approved by the Town.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the day and year first above written.

DECLARANT:

CRYSTAL RIVER LIMITED PARTNERSHIP
a Delaware Limited Partnership
By: Hines Colorado Corporation, a Texas
corporation, General Partner

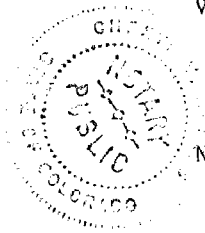
By: [Signature]
Title: Vice President

STATE OF Colorado)
) ss.
COUNTY OF Pitkin)

Subscribed, sworn to, and acknowledged before me this 15th day of
December, 1997, by David W. Parker, as

Vice President _____ of Hines Colorado Corporation a Texas Corporation, as
General Partner of CRYSTAL RIVER LIMITED PARTNERSHIP, a Delaware Limited
Partnership.

Witness my hand and official seal.



[Handwritten Signature]
Notary Public

My commission expires:
November 19, 2001

ACCEPTANCE BY THE CARBONDALE HOUSING AUTHORITY

The foregoing Declaration of Master Deed Restriction and Agreement Concerning the Sale,
Occupancy and Resale of Property Within the Common Interest Community Known as
Thompson Corner and its terms are hereby adopted and declared by the Carbondale Housing
Authority.

CARBONDALE HOUSING AUTHORITY

By: *[Handwritten Signature]*
Title: DIRECTOR

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me this 11th day of
December, 1999, by Bentley Henderson as
Director

Witness my hand and official seal.
My commission expires:

May 22, 2001

[Handwritten Signature]
Notary Public



CONSENT AND SUBORDINATION OF MORTGAGEE

The undersigned Wells Fargo Bank, National Association, being the beneficiary under that certain Deed of Trust recorded October 15, 1997 in Book 1038 at Page 1093 in the Office of the Clerk and Recorder of Garfield County, Colorado (the "Deed of Trust"), hereby consents to the recording of this Declaration of Master Deed Restriction, and hereby agrees that the Deed of Trust shall be subordinate in all respects to said Declaration of Master Deed Restriction.

Dated this 18th day of February, 1998.

WELLS FARGO BANK, NATIONAL ASSOCIATION

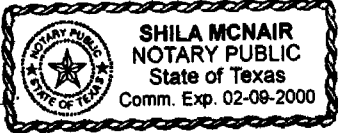
By: [Signature]
DAVID C. WILLIAMS
Its: Vice President

STATE OF Texas)
) ss.
COUNTY OF Harris)

The foregoing Consent and Subordination was acknowledged before me this 18th day of February, 1998, by David C. Williams as Vice President of Wells Fargo Bank, National Association.

Witness my hand and official seal.

My commission expires: 2/9/00



[Signature]
Notary Public

520824 02/25/1998 02:50P B1054 P907 M ALSDORF
15 of 21 R 106.00 D 0.00 GARFIELD COUNTY CO

EXHIBIT "A"

Legal Description

BLOCK G, PHASE I, RIVER VALLEY RANCH, ACCORDING
TO THE PLAT THEREOF RECORDED AS RECEPTION NO.
498928, OFFICE OF THE CLERK AND RECORDER OF
GARFIELD COUNTY, COLORADO, AS AMENDED BY
AMENDED PLATS RECORDED JANUARY 30, 1998 AS
RECEPTION NO. 519809 (LOT 20) AND RECEPTION NO.
519810 (LOTS 27 AND 28).

EXHIBIT "B"

Permitted Capital Improvements

1. The term "Permitted Capital Improvements" as used in the Agreement shall only include the following:
 - a. Improvements or fixtures erected, installed or attached as permanent, functional, non-decorative improvements to real property, excluding repair, replacement and/or maintenance improvements;
 - b. Improvements for energy and water conservation;
 - c. Improvements for the benefit of seniors and/or handicapped persons;
 - d. Improvements for health and safety protection devices;
 - e. Improvements to add and/or finish permanent/fixd storage space;
 - f. Improvements to finish unfinished space;
 - g. Garages;
 - h. The cost of adding decks and any extension thereto.

2. Permitted Capital Improvements as used in this Agreement shall NOT include the following:
 - a. Landscaping;
 - b. Upgrades/replacements of appliances, plumbing and mechanical fixtures, carpets and other similar items included as part of the original construction of the unit;
 - c. Jacuzzis, spas, saunas, steam showers and other similar items;
 - d. Improvements required to repair, replace and maintain existing fixtures, appliances, plumbing and mechanical fixtures, painting, carpeting and other similar items;
 - e. Upgrades or addition of decorative items, including lights, window coverings, floor coverings and other similar items.

3. All Permitted Capital Improvement items and costs shall be approved by the CHA prior to being added to the Maximum Resale Price as defined herein.

4. Improvements designated in 1(e), (g) and (h) are not subject to the twenty percent (20%) limitation on capital improvements when calculating the Maximum Resale Price; provided that, prior review and approval by CHA has been obtained.



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EXHIBIT "C"

OPTION TO PURCHASE


In the event of a foreclosure by the holder (including here and hereinafter assigns of the holder) of the promissory note secured by a first lien deed of trust or mortgage on the property described as *, also known as * (hereinafter the "Property"), and subject to the issuance of a public trustee's, sheriff's, or other foreclosure deed to the holder following the expiration of all statutory redemption rights, the Carbondale Housing Authority (the "CHA"), and the Town of Carbondale, Colorado (the "Town"), as the agent of the CHA, shall have the option to purchase the Property which shall be exercised in the following manner:

- a. **Notice.** The holder shall give such notice to the CHA and the Town as is required under Colorado law in the foreclosure proceeding. Said notice shall be sent by certified mail, return receipt requested, and addressed, as set forth below, or to such other address as may be directed in writing by CHA or the Town:

Carbondale Housing Authority
Attn: Carbondale Affordable Housing Corporation
1250 Hendrick Drive,
Carbondale, CO 81623

Town of Carbondale
with copy to: Carbondale Affordable Housing Corporation
ATTN: Town Manager
511 Colorado Avenue
Carbondale, CO 81623

- b. **Option to Purchase.** The CHA and the Town, as the agent of the CHA, shall have 30 days after issuance of the public trustee's, sheriff's or other foreclosure deed in which to exercise this option to purchase by tendering to the holder, in cash or certified funds, an amount equal to the redemption price which would have been required of the borrower or any person who might be liable upon a deficiency on the last day of the statutory redemption period(s) and any additional reasonable costs incurred by the holder during the option period which are directly related to the foreclosure; provided, that exercise of the option by one optionee shall terminate the right of the other to exercise the option.
- c. **Title.** Upon receipt of the option price, the holder shall deliver to either the CHA or the Town, as designated by the CHA, a special warranty deed, conveying the Property to either the CHA, or the Town, as designated. The holder shall convey only such title as it received through the public trustee's, sheriff's or other foreclosure deed and will not create or participate in the creation of any additional liens or encumbrances against the Property following issuance of the public trustee's, sheriff's or other foreclosure deed to the holder. The holder shall not be liable for any of the costs of conveyance to the CHA or its agent.


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- d. **Release.** In the event that the holder is issued a public trustee's, sheriff's or other foreclosure deed and neither the CHA or the Town exercise the option to purchase, as provided herein, the CHA shall cause to be recorded in the records of the Clerk and Recorder of Garfield County a full and complete release of the Property from the Declaration of Master Deed Restriction and Agreement affecting the Property which appear in said records in Book 1054 at Page 893. Such release shall be placed of record within 14 days after expiration of the option and a certified copy of the release shall be mailed to the holder upon its recordation.
- e. **Perpetuities Savings Clause.** If any of the terms, covenants, conditions, restrictions, uses, limitations, obligations or options created by this option to purchase shall be unlawful or void for violation of: (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing like or similar time limits, then such provision shall continue only for the period of the lives of the current duly elected and seated Board of Trustees for the Town of Carbondale, Colorado, their now living descendants, if any, and the survivor of them, plus twenty-one (21) years.
- f. **Successors and Assigns.** Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the parties hereto.
- g. **Modifications.** The parties hereto agree that any modification to this option to purchase shall be effective only when made by a writing signed by the parties and recorded with the Clerk and Recorder of Garfield County, Colorado; provided, however, no modification affecting the rights of the Town shall be effective without the prior written consent of the Town.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the day and year written below.

HOLDER OF FIRST DEED OF TRUST/MORTGAGE: _____

BY: _____
(Authorized Officer) (Date)

TITLE: _____

MAILING ADDRESS: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 199____, by _____.

Witness my hand and official seal;

My commission expires: _____

Notary Public

THE CARBONDALE HOUSING AUTHORITY:

BY: _____
(Authorized agent) (Date)

TITLE: _____

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

The foregoing instrument was acknowledged before me this _____ day of _____, 199____, by _____.

Witness my hand and official seal;

My commission expires _____



Notary Public

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BORROWER:

(Date)

(Date)

STATE OF)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____,
199____, by _____.

Witness my hand and official seal;

My commission expires: _____

Notary Public