

DECLARATION OF PROTECTIVE COVENANTS FOR
BRITTANY PLACE OF BRECKENRIDGE TOWNHOMES

This Declaration for Protective Covenants is made this 23rd
day of AUGUST, 1996 by Michael Hirsch (the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property situated in the County of Summit and State of Colorado, as more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter called "Property", "Brittany Place" or "Brittany Place of Breckenridge Townhomes"), and is desirous of subjecting said real property to the restrictions and covenants set forth herein so these declarations and restrictions shall be burdens and benefits to the Property, Declarant, its respective heirs, successors, assigns and grantees and their successors, heirs, grantees and assigns,

WHEREAS, Declarant desires to create a Common Interest Community under C.R.S. 38-33.3-201 a planned community in Summit County, Colorado of eleven (11) units,

WHEREAS, Declarant desires to protect and maintain Brittany Place as a prime mountain residential area of the highest possible quality and value for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property,

WHEREAS, Declarant desires to provide for the operation and maintenance of public roadways and any General Common Areas, including any private roads or parking areas, common areas, and any other related facilities of Brittany Place,

WHEREAS, Declarant hereby desires to create certain agencies to which should be delegated and assigned the powers and duties of maintaining and administering the common areas, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessment and charges hereafter created.

NOW WHEREFORE, Declarant hereby declares that the Property described in Exhibit "A" shall be held, sold, and conveyed subject to the following restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, and assigns and shall inure to the benefit of each Owner thereof.

ARTICLE I
DEFINITIONS

Section 1.1 Definitions. The words, when used in this

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Doris L. Brill - Summit County Recorder

Declaration or in any supplemental Declaration (unless inconsistent with the context hereof), shall have the following meaning:

A. "Architectural Design Guidelines" or "Guidelines" means the Brittany Place of Breckenridge Townhomes Architectural Design Guidelines established by Declarant for use by the Design Review Board in exercising its architectural control responsibilities provided for in Article II hereof, which Architectural Design Guidelines are subject to amendment by the Design Review Board in accordance with the terms hereof.

B. "Association" means the Brittany Place of Breckenridge Homeowner's Association, Inc., a Colorado nonprofit membership corporation, its successors and assigns.

C. "Board of Managers" means the governing body of the Association, elected by the Owners, to perform the obligations of the Association relative to operation, maintenance and management of Brittany Place of Breckenridge Townhomes.

D. "Declarant" means Michael Hirsch, his successors and assigns. For the purpose of evidencing that Declarant's rights hereunder have been assigned and obligations assumed by any party, Declarant may record an assignment or deed in the records of Summit County, Colorado, and upon such recording Declarant's rights and obligations hereunder shall cease and terminate to the extent of the rights assigned and shall thereafter be vested in the assignee or grantee according to tenor of such assignment or deed.

E. "Declaration" shall mean and refer to this Declaration of Protective Covenants for Brittany Place Townhomes.

F. "Design Review Board" or "Board" means the Brittany Place Design Review board as provided in Article II hereof.

G. "General Common Area" means any real property, including any improvements thereon or which may be placed thereof, in Summit County, Colorado to be owned or administered by the Association for their common use and enjoyment of the Owners on a non-exclusive basis, except as otherwise provided herein. The General Common Area shall include areas designated as Out Lot A and Out Lot B upon the Plat.

H. "Limited Common Area" means those improvements attached to the real property or building specifically including decks which overhang the General Common Areas which are primarily for the access and use of single owners but are located in the General Common Areas; permitted use of the Limited Common Area is hereby under this Declaration allowed encroachments into the General Common Area.

I. "Lot" means any numbered or lettered Lot shown on any recorded subdivision plat of the Property, but shall not include the General Common Areas.

J. "Owners" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, but shall not mean or refer to any person or entity who holds such interest merely as security for the performance of a debt or other obligation, including a mortgagee or beneficiary under a deed of trust, unless and until such person has acquired fee simple title pursuant to foreclosure or other proceedings.

K. "Plat" means the final Plat of Brittany Place and such amended, additional or supplemental Plats or maps as may be filed for the Property.

L. "Title to Lot." Title to a Lot may be held individually or in any form of concurrent ownership recognized in the State of Colorado. Any contract of sale, deed, lease, deed of trust, mortgage, security interest, will or other instrument affecting a Lot may describe it by its letter or number as shown on the Plat, followed by the name of the development, Brittany Place at Breckenridge Townhomes, and reference to this Declaration and to the Plat. Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect a Lot and all appurtenant rights, benefits and burdens thereto as created by the provisions of this Declaration, and each such description shall be so construed.

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

N. "Builder" means MICHAEL J. HIRSCH COMPANIES, which has exclusive rights to build and erect all homes at Brittany Place unless such exclusive right is waived by MICHAEL J. HIRSCH COMPANIES in writing.

O. "Unit" means any dwelling unit upon any Lot.

P. "Parking" The parking areas for Brittany Place shall be those designated on the plat map. All parking spaces are considered to be part of the General Common Areas of Brittany Place. All parking places are subject to the rules and regulations of the Declarant and the Association and may be individually assigned to particular Units of particular Owners in accordance to the rules and regulations of the Association.

Q. Whenever used in this Declaration, use of any gender or the neuter shall be applicable to all genders and the neuter. The use of the singular shall include the plural, and vice versa.

ARTICLE II ARCHITECTURAL CONTROL

Section 2.1 Approval Required. No building, house,

outbuilding, shed, doghouse, tennis court, pool, hot tub, spa, porch, patio, excavation, landscaping, fence, wall, or any other structure of any kind shall be commenced, erected, placed or maintained upon any Lot within the Property, nor shall any exterior addition to or change or alteration therein be made until satisfactory and complete plans and specifications showing both the nature, kind, shape, height, color scheme, materials, and location of the same and all landscaping for the Lot shall have been submitted to and approved in writing both as to harmony of external design and location in relation to surrounding structures, topography and natural surroundings and as to compliance with the Architectural Design Guidelines by the Design Review Board appointed as provided in Section 2.2. Approval by the Board is in addition to and not in lieu of County or other building code requirements.

Section 2.2 Board. The Design Review Board shall consist of three members who shall be designated by Declarant, until such time as Declarant's Class B membership in the Association ceases as provided for in Section 3.2 below, at which time the members of the Design Review Board shall be appointed by the Board of Managers. The Board shall review, study and approve or reject proposed improvements upon the Property subject both to these covenants and restrictions and to the Architectural Design Guidelines and as further set forth in the rules, regulations and bylaws of the Design Review Board.

Section 2.3 Rules and Guidelines. The Design Review Board may make such rules, regulations, and bylaws as it may deem appropriate to govern its proceedings. The Architectural Design Guidelines established by Declarant may be amended by the Design Review Board; provided, however, that any such amendment may be called up for review and approval by the Association at the request of any three owners at the next meeting however if the amendment is called up amendment the effect of any such amendment shall be suspended until it is approved by the Association.

Section 2.4 Criteria. In passing upon such plans and specifications, the following shall apply to the review and shall be considered by the Design Review Board:

A. Architectural Design Guidelines. The plans and specifications shall be in strict compliance with the Architectural Design Guidelines in effect at the time of review by the Board.

B. Generally. It shall be an objective of the Design Review Board to make certain that no improvements will impair the aesthetic and monetary values of the Property. The Board shall consider the suitability of the improvements and the materials of which they are to be constructed; the quality of all materials to be utilized in any proposed improvement; the effect of any proposed improvement on adjacent or neighboring property; the location and character and method of utilization of all utility services; the impact of any proposed improvement upon the natural surroundings; and the timely and orderly completion of all such improvements.

Section 2.5 Utilities. All water, sewer, power, telephone and cable TV lines to a Unit shall be underground.

Section 2.6 Enforcement. Noncompliance with any provision of this Article II shall, without limiting any other remedy which the Design Review Board or any other person or entity may possess, be grounds for injunctive relief, each Owner or other person constructing improvements upon the Property hereby waiving the posting of a bond upon entry of such injunction. All attorney's fees and costs incurred by the Board or such other person or entity in a suit to enforce the terms of this Article shall, if the Board or such other person or entity prevails in such action, be recoverable from the losing party.

Section 2.7 Limitation of Liability. The Board shall use reasonable judgment in accepting or disapproving all plans and specifications submitted to it. Neither the Board nor any individual Board member shall be liable to any person for any omission or official act of the Board in connection with the submitted plans and specifications, except to the extent the Board or any individual Board member acted with malice or wrongful intent. Approval by the Board does not necessarily assure approval by the appropriate governmental board of commission for the County of Summit, Colorado.

Notwithstanding that the Board has approved plans and specifications, neither the Board nor any of its members shall be responsible or liable to any Owner with respect to any loss, liability, claim or expense which may arise by reason of such approval. Neither the Board, nor any of its employees, agents, or consultants shall be responsible in any way for any defects in any plans or specifications submitted, reviewed or approved in accordance with the provisions hereof, or for any structural or other defects in any work done according to such plans and specifications.

Section 2.8 House Number. Each Unit shall have a house number with a design and location established by the Design Review Board.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 3.1 Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 3.2 Classes of Membership. The Association shall have two classes of voting membership.

Class A: Class A members shall be all Owners, with the exception of the Declarant until the conversion of Declarant's Class B membership as set forth herein. Class A members shall be entitled to one vote for each Lot. When more than one person holds an ownership interest in any Lot, all such persons shall be members

of the Association, provided, however, that the votes for any Lot shall be exercised by a representative of such persons designated in a written notice to the Board of Managers signed by all such persons or by persons demonstrating to the satisfaction of the Board of Managers that they own a majority interest in such Lot. The Association and Board of Managers shall be entitled to rely upon any such written notice until a new notice meeting the requirements of this paragraph is received as to such Lot. In no event shall more than one vote be cast with respect to any Lot.

Class B: The Class B member shall be the Declarant, and Declarant shall be entitled to 1.5 votes times the number of Lots owned by Declarant. The Class B membership shall cease and be converted to Class A membership (a) when the total votes outstanding in the Class A membership is equal to or greater than the total votes outstanding in the Class B membership, or (b) on July 1, 1998, or (c) by voluntary transfer by Declarant.

Section 3.3 Additional Filings. Upon the filing of a Plat for any future filings of Brittany Place, a filing of an amendment of any Plat, or filing of any additional Plats adding to the property covered by this Declaration, the persons entitled to vote on the membership of the Architectural Review Committee shall be revised in accordance with the number of Lots Platted in such future filing or expansion. The class of voting rights for any additional Lots or Units shall be determined based on ownership as provided for in Section 3.2 above. Declarant's Class B voting rights shall be of full force and effect upon each future filing of expansion.

Section 3.4 Compliance with Association Articles, Bylaws, Etc. Each Owner shall abide by and benefit from each provision, covenant, condition, and restriction contained in this Declaration, and the Articles of Incorporation and Bylaws of the Association, and by which each Owner agrees to be bound, or which is contained in any rule, regulation, or restriction promulgated pursuant to said Articles and Bylaws. The obligations, burdens, and benefits of membership in the Association touch and concern the land and shall be covenants running with each Owner's Lot or Unit for the benefit of all other Lots and Units.

ARTICLE IV POWERS AND MANAGEMENT OF THE ASSOCIATION

Section 4.1 The Association. Subject to the rights and obligations of Owners as set forth in this Declaration, the Association shall be responsible for the management, control, maintenance, repair, replacement, and improvement of any common access drives which are not accepted for maintenance purposes by the County of Summit or other governmental authority, and any General Common Areas, including any recreation facilities, or other facilities, and other improvements constructed thereon, and shall keep the same free of diseased timber and in a good, clean, and attractive condition. Additionally, all utilities services including private sewer lines and any other facilities shall be

maintained by the Association up to the point of entry into the improvement. The Association shall also establish mandatory programs for the provision of services, including but not limited to snow removal from roads and common and private driveways, trash removal, common grounds maintenance, hot tub maintenance (if so installed in common area at Owners expense) sewer maintenance and the like, and charge the Owners benefiting from such services for the costs thereof and reasonable overhead. The Association may establish replacement of any improvements to be maintained by the Association.

Section 4.2 Powers of the Association. The Association may acquire, own, lease, dispose of or hold for the benefit of its members tangible and intangible property, both real and personal, and the beneficial interest in any such property shall be deemed to be owned by the Owners in proportion to their voting rights in the Association. Such interests shall not be transferrable except with the transfer of a Lot, and any transfer of a Lot shall include all such interest without reference thereto. The Association may exercise any and all other rights or privileges given to it or to its Board of Managers by this Declaration, or by the Articles of Incorporation or Bylaws of the Association, or as may otherwise be given to it by law, and every other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. The Association shall have power to regulate, control and define use of the Common Areas and Common Elements.

Section 4.3 Board of Managers. Management of the Association shall be vested in a Board of Managers. The number, election and tenure of members of the Board of Managers shall be as set forth in the Articles of Incorporation and Bylaws of the Association.

Section 4.4 Powers. The Board of Managers shall have the power to:

A. Adopt and publish rules and regulations governing the use of any roads, sidewalks and sewer maintained by the Association and General Common Areas, and personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

B. Appoint members of the Design Review Board, except as provided in paragraphs 2.2 hereof;

C. Suspend the voting rights and use of General Common Areas of a member during any period in which such member shall be in default in payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

D. Administer, manage, repair, and maintain any roads sidewalks and sewers to be maintained by the Association and any General Common Areas or Limited Common Areas, provided, however,

that in the event the Board of Managers shall not repair or maintain said roads or General Common Areas or Limited Common Areas, the Declarant shall have the right, but not the obligation, to do so at the expense of the Association as long as Declarant owns twenty percent (20%) of the Lots within the Property.

E. Establish mandatory programs for trash removal, the clearing of snow from roads and common and private driveways, maintain common grounds or the provision of other common services including sewers and to charge the Owners benefiting from such services for the costs thereof plus reasonable overhead. Such charges shall be assessed and collected as assessments for common expenses under Article X.

F. Exercise for the Association all powers, duties, and authority vested in or delegated to the Board of Managers or the Association and not reserved to the membership or the Declarant by other provisions of the Declaration, the Articles of Incorporation or the Bylaws of the Association.

ARTICLE V DEDICATION OF THE GENERAL COMMON AREAS

The Declarant in recording any subdivision plat may designate certain areas of land intended for use by the Owners of Brittany Place as private roads, private sewers, parking areas, open space, trails, recreational areas and the like, herein sometimes referred to as General Common Areas. Additions to the General Common Areas may be made in the future. The designated areas are not dedicated hereby for the use by the general public, but are dedicated to the common use and enjoyment of the Owners as more fully provided in Article VI hereto, subject to the limitation set forth therein. Title to such General Common Areas shall be held by the Association for the benefit of the Owners, without separate conveyance by the Declarant.

ARTICLE VI RIGHTS IN THE GENERAL COMMON AREAS

Section 6.1 Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to any General Common Areas which shall be appurtenant to and shall pass with the title to every Lot and Unit, subject to the following provisions:

A. The right of the Declarant or the Association at any time and from time to time to build recreational facilities on, over, under, and above any General Common Areas subject to approval by the County of Summit and any other regulating bodies.

B. The right of the Declarant or the Association to charge reasonable admission and other fees for, and set reasonable regulations upon, the use of any recreational facility situated upon any General Common Areas.

C. The right of the Declarant or the Association to suspend

the voting rights and right to use of any General Common Areas or portions thereof and the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations except that such suspension shall not, in any manner, interfere with the rights of the Owner, his family members, his guests, licensees, invitees, and installment contract purchasers to free access for purposes of ingress and egress to and from his Lot.

D. The right of the Declarant or the Association to dedicate, transfer, assign, or grant permission to use all or any part of any General Common Areas by any governmental subdivision, public agency, authority, or public or private utility for such purposes and subject to such conditions as may be agreed to.

Section 6.2 Delegation of Use. Any Owner may delegate, but only in accordance with and subject to the limitations of the Bylaws of the Association and any rules and regulations promulgated in accordance herewith, his right of enjoyment to any General Common Areas and facilities to the members of his family, his tenants, guests, or contract purchasers who reside on the Property.

Section 6.3 Damage to General Common Areas. The right of use granted to Owners other than the Declarant herein shall not extend to uses which damage or disturb any General Common Areas or to the use of such areas for or during an Owner's construction of improvements upon his Lot. The Association may immediately, and without notice, cause any damage or disturbance to be repaired and recover the costs thereof from the Owner causing such damage or disturbance. If any such amount is not paid within ten (10) days of a demand for payment by the Association, such amount shall be considered as an unpaid assessment by the Association against the Owner causing the damage or disturbance and may be recovered in any manner permitted under Article IX. Additionally, the Association may obtain injunctive relief to enjoin any such injurious use of any General Common Areas, each Owner or other person constructing improvements upon the Property hereby waiving the posting of a bond upon the entry of such injunction. All attorney's fees and costs incurred by the Association in a suit to enforce the terms of this Article shall, if the Association prevails in such action, be recoverable from the losing party.

Section 6.4 Declarant's Right to Use of General Common Areas. The Declarant shall continue to hold title to the General Common Areas until the build out of the Property is completed. The Declarant shall grant a temporary easement for access to all other Owners until such time as the General Common Areas' title is transferred to the Association. Nothing in this Covenant shall prevent the platting and sale of Lots in the present General Common Areas prior to July 1, 1998. Title of the General Common Areas, except those portions which become Lots for additional Units, shall be transferred to the Association not later than July 1, 1998. After July 1, 1998 the Declarant shall have a nonexclusive easement to make such use of the General Common Areas as may be necessary or

appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration, including the right to construct and maintain in or on any General Common Areas maintenance and storage facilities for use by the Association or the Declarant. Declarant or the Association may construct and maintain on any General Common Areas recreational facilities for use by the members of the Association and, with the approval of the Board of Managers and Town of Breckenridge for use by other persons.

ARTICLE VII EASEMENTS AND LICENSES

Section 7.1 Easements for Ingress and Egress. Declarant hereby grants as an appurtenance of each Lot an easement of General Common Areas and Limited Common Areas as shown on any subdivision plat for the Property of additions thereto. Only areas designated as roads or parking areas shall be used for vehicular ingress and egress.

Section 7.2 Reservation of Easements, Exceptions, and Exclusions. Declarant reserves of itself and also grants to the Association the right to establish from time to time by dedication or otherwise, utility and other easements across the General Common Areas for any purpose necessary or convenient for the use and occupancy of the Property including but not limited to water, sewer, gas, electricity, television cable, drainage, irrigation, and recreation, and to create other reservations, exceptions, and exclusions in the dedication of the General Common Areas consistent with the best interests of the Owners, the Association, and the Declarant.

Section 7.3 Further Reservation. Declarant further reserves the right to establish from time to time by dedication or otherwise, utility and other easements, and other reservations, exceptions, and exclusions convenient or necessary for the use and operation of any other property of the Declarant. Declarant reserves the rights to plat additional Lots in the General Common Areas as described in Article VI, Section 6.4.

Section 7.4 Annexation of Additional Property. During the initial term of this Declaration, additional residential property and general common areas may be annexed to the Property at the discretion of the Declarant as set forth herein. No such annexation shall require the vote of any Owner. Such expansion may be accomplished by the filing for record by Declarant or their assignee in the office of the Clerk and Recorder for Summit County, Colorado a supplement or supplements to this Declaration setting forth the real property to be included in the expansion. The expansion may be accomplished in stages by successive supplements or in a single expansion. In the event of such expansion, the definitions used in this Declaration shall be expanded automatically to encompass and refer to the Property as so expanded. For example, "Lot" shall mean the Lots described hereinabove plus any additional Lots added by a Supplemental

Declaration or Declarations, and references to this Declaration shall mean this Declaration as so supplemented. All conveyances of Lots shall be effective to transfer rights in the Property as expanded. The new Lots shall be subject to all of the terms and conditions of this Declaration and of any amendments or supplements to this Declaration upon placing the supplemental Plat(s) and supplemental Declaration(s) of public record in the real estate records of Summit County, Colorado.

ARTICLE VIII
INCIDENTS OF LOT OWNERSHIP

Section 8.1 Title. Title to a Lot may be held or owned by any person or persons and any entity or entities and in any manner in which title to real property may be held or owned in the State of Colorado excluding time share ownership of one week per owner.

Section 8.2 Inseparability. Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of a Lot shall be presumed to be a gift, devise, bequest, transfer, encumbrance, or conveyance respectively of the entire Lot, together with all appurtenant rights created by law or by this Declaration.

Section 8.3 No Partition or Subdivision. Any General Common Areas shall be owned by the Association and neither any Owner, group of Owners, nor the Association shall bring any action for partition or subdivision of such areas. Similarly, no Lot may be subdivided. This provision shall not limit the Declarant's rights described in Article VI, Section 6.4 and Article VII, Section 7.3.

Section 8.4 Access to Houses for Maintenance, Repair, and Emergencies. (a) The Board of Managers of the Association or their delegated representatives, or the Declarant should the Board of Managers fail to act, shall have the irrevocable right to have access to each Lot, to each house or dwelling on any Lot, and to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of any landscaping or improvement on any lot, or any of the General Common Areas accessible therefrom. All maintenance, repairs, or replacements of any landscaping or improvement on a Lot or of any Unit, shall be at the expense of the Owner thereof. Such right of access shall be immediate for the making of emergency repairs in order to prevent property damage or personal injury. In other cases, and except as otherwise provided herein, a five day written notice specifying the needed maintenance, repair or replacement shall be given to the Owner of such Lot or Unit prior to entry. All damaged improvements or landscaping shall be restored to substantially the same condition in which they existed prior to the damage. All maintenance, repairs, and replacements of any General Common Areas or improvements thereon shall be the common expense of all of the Owners, provided, however, if such damage is caused by a negligent or tortious act of any Owner, member of his family, his agent, employee, invitee, licensee, or tenant, then such Owner shall be responsible and liable for all such damage. This Declaration establishes no duty upon the Board of Managers, the

Association or the Declarant to maintain, repair, or replace any landscaping or improvements on a Lot or any Unit, and this Section 8.4 vests no rights in Owners or any other person as against the Board of Managers of the Association, the Association, or the Declarant.

(b) Restrictive Covenant and Agreement on Landscaping.

(i) The Owners shall each jointly and severally maintain the landscaping on Owner's Property in strict compliance with the landscaping requirements of the Development Permit. If the Association or the Town of Breckenridge ("Town") determines that Owner is default hereunder, Town shall notify Owner of such default in writing. Within thirty (30) days following receipt of such notice Owner shall correct such default, or, in the event of a default not capable of being corrected within thirty (30) days, Owner shall contact the Town Staff and shall develop a timetable agreeable to the staff to correct the default and thereafter correct the default with due diligence. If Owner fails or refuses to correct any default as provided above, Town may enforce this Covenant as hereafter provided.

(ii) This Covenant is made for the benefit of the Town, which is given the sole power to enforce it. Owner agrees that in the event of Owner's default hereunder, the Town shall have the right to specific performance of this Covenant and the right to obtain from any court of competent jurisdiction a temporary restraining order, preliminary injunction and permanent mandatory injunction to obtain such performance.

(iii) If any action is brought in a court of law by either party to this Covenant concerning the enforcement, interpretation, or construction of this Covenant, the prevailing party, either at trial or upon appeal, such be entitled to reasonable attorney's fees, as well as court costs, including expert witness fees, incurred in the prosecution or defense of such action.

(iv) This Covenant shall be placed of record in the real property records of Summit County, Colorado and the covenants contained herein shall run with the land and shall bind, and the benefits shall inure to, respectively, the Owner and Owner's successors and assigns, and all subsequent owners of Owner's Property or any interest therein, and the Town, for a period of 99 years from the date of this Covenant.

(v) The Owner hereby agrees that any and all requirements of the laws of the State of Colorado to be satisfied in order for the provisions of this Covenant to constitute a restrictive covenant running with the land shall be deemed to be satisfied in full, and that any requirements of privity of estate are intended to be satisfied or, in the alternative, that an equitable servitude has been created to insure that the covenant herein contained shall run with the land. During the term of this Covenant, each and every contract, deed, or other instrument

hereafter executed conveying the Property or any portion thereof shall expressly provide that such conveyance is subject to this Covenants, provided however, that this Covenant herein contained shall survive and be effective as to successors and/or assigns to all or any portion of the Property, regardless of whether such contract, deed, or other instrument hereafter executed conveying the Owner's Property or portion thereof provides that such conveyance is subject to this Covenant.

(vi) The provisions of this Covenant may be waived, modified, or terminated with the written consent of both the current owner of Owner's Property and the Town. No such waiver, modification, or termination shall be effective until the proper instrument in writing shall be executed and recorded in the office of the Clerk and Recorder of Summit County, Colorado.

(vii) The intent of this Agreement is not treat the Owner or Owner's Property differently than other owners or properties similarly situated in the Town of Breckenridge, nor to avoid the constitutional requirements of equal protection and due process. The requirements of this Agreement are based entirely on the Development Code of the Town of Breckenridge in effect at the time of this Agreement. If the Development Code changes in the future, then burdens and benefits of this Agreement will be amended to reflect such change to the same degree that they would be altered if the substantive provisions of this Agreement had initially been zoning requirements.

Section 8.5 Limited Common Areas. It is intended that the decks designated on the final Plat as Limited Common Areas shall be primarily used by the Owners of the Unit to which they are attached. The common element and characters are limited to the inherent nature of the decks overhanging the General Common Areas and the need for maintenance.

ARTICLE IX PARTY WALLS MAINTENANCE

Section 9.1 Party Walls. Party Walls are shared by Townhomes described as:

Section 9.2 Owner's Expense. Except as is otherwise provided hereinafter, the cost of reasonable repairs and maintenance of a Party Wall shall be a joint and sole expense of the Owners sharing said Party Wall and not the Association. Where the damage is clearly caused by one Owner, said Owner shall be solely responsible for the cost of repair.

Section 9.3 Party Wall Repair and Maintenance. If a Party Wall, or any portion thereof, is damaged or destroyed, such damage or destruction, if possible, shall be promptly repaired. Repair and construction means the restoration of the Party Wall to substantially the same condition in which it existed prior to such damage or destruction. Said repair and maintenance shall be the joint expense of the Owners of the individual Townhome Buildings to

be divided equally between such Owners of the Townhome Buildings and not the Association. Without prejudice to the requirement to share the expense, any Owner shall have the right to demand a larger contribution from the other Owners under any rule of law regarding liability for the negligent or willful acts or omissions of such other Townhome Owner.

Section 9.4 Party Wall Modification. All Townhome Lots and improvements and the Party Walls thereon are subject to a blanket easement of support and blanket easement for the maintenance and repair of the improvements, utilities and other structures or improvements presently situated, or to be built in the future, on these Townhome Lots. Each improvement and the Townhome Lot upon which it is situated and shall be subject to an easement in favor of the Townhome Lot sharing a common Party Wall for encroachments created by construction, settling and overhangs, previously existing or as designed and constructed and for the maintenance of same, so long as said improvements stand. In the event any improvement is partially or totally destroyed, and then rebuilt, the Owner of any adjacent improvement agree that minor and temporary encroachments of parts of the damaged and destroyed improvements due to construction shall be permitted and that a valid easement of said encroachment and the maintenance thereof shall exist. There is hereby created a blanket easement upon, across, over and under each Townhome Lot for the benefit of all of the Townhome Lots and the structures and improvements situated thereon including any Party Wall, for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewer, gas, telephone television and electricity, provided, however, that said easement shall be limited to situations in which access to any one Townhome Lot is not otherwise available. Said easement includes utility services not presently available to the Townhome Lots which may be installed in the future. By virtue of this easement, it shall be expressly permissible for the providing of electrical and/or telephone company requirements to erect and maintain the necessary equipment on any of the Townhome Lots and to affect and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of any improvements on the Townhome Lots.

ARTICLE X ASSESSMENTS

Section 10.1 All Owners shall be obligated to pay the estimated assessments imposed by the Board of Managers of the Association to meet any common expenses of maintenance, including but not limited to, snow and trash removal, water, sewers and utilities, expenses of the Architectural Control Board. The Board of Managers of the Association may establish any reasonable system for periodic collection of common expenses, in advance or arrears, as deemed desirable and as are consistent with its Articles of Incorporation and Bylaws. Assessments made shall be based upon the estimated cash requirements deemed to be such aggregate sum as the Board of Managers of the Association shall from time to time

determine to be paid by all of the Owners. Estimated expenses include, but are not limited to the following: the cost of maintenance and operation of any roads maintained by the Association and General Common Areas; expenses of management, taxes and special governmental assessments appertaining to any General Common Areas unless separately assessed to each Lot, the expenses associated with the use and maintenance of recreation facilities, insurance premiums for insurance coverage as deemed desirable or necessary by the Association, landscaping, care of grounds, common lighting, repairs and renovations, wages, common water, sewer and utility charges, legal and accounting fees, management fees, fire monitoring service, expenses and liabilities incurred by the association under or by reason of this contingency or other reserve or surplus fund, as well as other costs and expenses relating to the general common expense. The omission or failure of the Association to fix the assessments for any assessment period shall not be deemed a waiver, modification, or release of the Owners from their obligation to pay the same. The Association shall have the right, but not the obligation, to make pro rata refunds of any assessments in excess of the actual expenses incurred prior to the end of the fiscal year.

Section 10.2 Special Assessments for Capital Improvements. In addition to the annual assessments authorized by this Article, the Association may levy any assessment year a special assessment, payable over such a period as the Association may determine, for the purpose of paying, in whole or in part, the cost of any construction or reconstruction on or unexpected repair or replacement of any roads to be maintained by the Association or any General Common Areas or improvements thereon, or for any other expenses or purchase incurred or to be incurred, as provided in this Declaration. This section shall not be construed as an independent source of authority for the Association to incur expense, but shall be construed to prescribe the matter of assessing for expenses authorized by other sections hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in the same proportion as provided in Section 9.3.

Section 10.3 Apportionment. Each Lot and the Owner of each Lot shall be responsible for its or his share of the common expenses or special assessments. The share for each Unit shall be determined by dividing the total estimated common expenses for a particular period, or the total special assessment, by the total number of Lots within the Property according to the Plat, or such lesser number of Lots as may be appropriate if an expense is not to be borne by all of the platted lots pursuant to other provisions of the Declaration.

Section 10.4 Time for Payment of Assessments. Assessments shall be due and payable within thirty (30) days after written notice of the amount thereof shall have been given to the respective Owner of a Lot. All assessments shall bear interest at the rate of eighteen percent (18%) per annum, or five percent above the prime commercial lending rate of Mountain Parks Bank West, Breckenridge, Colorado, as such rate may be adjusted from time to

time, whichever rate is higher, from the date the assessment becomes due and payable if not paid within thirty (30) days after such date. Additionally, the Board of Managers may impose a late charge upon amounts in default as it deems reasonably appropriate.

Section 10.5 Assessment Lien. All sums assessed but unpaid for the share of common expenses or special assessments chargeable to any Lot shall constitute a lien on such Lot and any Unit which lien shall be superior to all liens except (a) tax and special governmental assessment liens on the Lot and improvements thereon and (b) all sums unpaid on a mortgage or deed of trust which constitutes a first mortgage or deed of trust of record at the time of the accrual of such unpaid expenses or assessments, including all unpaid mandatory advances as may be required by such encumbrance. To evidence the lien as herein permitted, the Association shall prepare a written notice setting forth the amount of such unpaid indebtedness, the amount of accrued penalty thereon, the name of the Owner of the Lot and description of the Lot, and record the same in the office of the Clerk and Recorder of Summit County, Colorado. The lien may be enforced by foreclosure of the defaulting Owner's interest in its Lot by the Association in the manner for foreclosing a mortgage on real property under the laws of the State of Colorado. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien, and all reasonable attorney's fees in connection therewith. The Association shall have the power to bid on a Lot and the improvements thereon at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. Any mortgagee holding a lien on a Lot may pay any unpaid assessment payable with respect to such Lot and any and all costs and expenses with respect thereto, and acquire the lien on such Lot for the amounts paid.

Section 10.6 Personal obligation. The amount of assessment chargeable against any Lot and all expenses of collection, including reasonable attorney's fees, shall be a personal and individual debt of the Owner thereof, and shall be a joint and several liability of all persons included as Owner. No Owner may exempt itself from liability for the assessment by abandonment of a Lot or Unit or waiver of the use or enjoyment of any General Common Areas or roads. Suit to recover a money judgment for unpaid assessments, any penalties and interest thereon, the cost and expenses of such proceedings, and all reasonable attorney's fees in connection therewith, may be maintained without foreclosing or waiving the assessment lien provided in Section 9.5.

Section 10.7 Notice to Mortgagees. The Association shall report to any mortgagee of a Lot any unpaid assessments remaining unpaid for longer than 90 days after the same shall have become due, if such mortgagee first shall have furnished to the Association written notice of the mortgage and a request for such report.

Section 10.8 Waiver of Homestead Exemption. By accepting a

deed to a Lot, each Owner shall thereby waive and release any and all rights and claims said Owner may have in and to the Lot or Unit constructed thereon as a homestead exemption or any other exemption, said waiver and release to be applicable only with respect to assessment liens imposed pursuant to this Declaration.

Section 10.9 Statement of Status of Assessment Payment. Upon payment of a reasonable fee not to exceed \$50.00 and upon the written request of any Owner, mortgagee, prospective mortgagee, or prospective purchaser of a Lot, the Board of Managers of the Association shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Lot. Unless such statement shall be issued (which shall include posting in the United States mails) within twenty (20) days, all unpaid assessments which become due prior to the date of making such requests shall be subordinate to the lien of a mortgagee which acquired its interest subsequent to requesting such statement. If the request is made by a prospective purchaser, both the lien for the unpaid assessment and the personal obligations of the purchaser shall be released automatically, without releasing seller's personal liability for the debt, if the statement is not furnished within said twenty (20) day period and the purchaser acquires the Lot within sixty (60) days of its request.

Section 10.10 Personal Liability of Purchaser for Assessments. Subject to the provisions of Section 9.9, a purchaser of a Lot shall be jointly and severally liable with the seller for all unpaid assessments against the Lot up to the time conveyance to the purchaser, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

Section 10.11 Assessment Reserves. Each Owner, other than Declarant, may be required to deposit and maintain with the Association an amount equal to one quarter of the estimated annual assessment for each Lot, which sum shall be used by the Association as a reserve for paying such Owner's assessments, for purchase of equipment and supplies, and for working capital of the Association. Such advance payment shall not relieve an Owner from making the regular payments of assessments as the same become due. Upon the sale of a Lot, the amount of an Owner's assessment reserve shall not be refunded, but the Owner may obtain a credit from his grantee for any unused portion thereof.

ARTICLE XI PROTECTIVE COVENANTS

Section 11.1 Improvements Prohibited. No used or secondhand structure, no building of a temporary character, except a sales facility for Declarant's use in selling Lots, no mobile home, house trailer, tent or shack or outbuilding shall be placed or used on the Property, either temporary or permanently, except that necessary appurtenances for and during actual construction may be used, and trailers and structures of a temporary nature may be used

during the period of construction of an approved and allowed improvement, but for no longer than twenty-four (24) months or until the total completion of said improvement, whichever is earliest, without prior written approval of the Design Review Board, which may further limit the uses and time limits provided for herein.

Section 11.2 Signs. No signs, including "for sale" or "for lease" signs, billboards, posterboards, or advertising structure of any kind shall be erected or maintained for any purpose whatsoever except such signs as have been approved by the Design Review Board pursuant to the Architectural Design Guidelines and the Board's rules and regulations. Any signs which are permitted under the foregoing restrictions shall be erected or maintained on the Property only with the prior written approval of the Design Review Board. Declarant shall be permitted to have "for sale" signs and "open house" signs during the initial sell out of the project.

Section 11.3 Trash. No trash, ashes, or other refuse or debris may be thrown or dumped on the Property. The burning of refuse out-of-doors shall not be permitted. No incinerators or other device for the burning of refuse indoors shall be constructed, installed, or used by any person except as approved by the Design Review Board and the Board of Managers. Waste materials, garbage, and trash shall be placed in the dumpster which will be placed on the General Common Area. the Owner of any Lot shall keep the premises free of trash, refuse or debris of any kind.

Section 11.4 Pets, Dogs, Cats or customary household pets may be kept on the Property, not to exceed two (2) per dwelling unit without prior written approval of the Board of Managers. No wild animals or reptiles may be trapped, transported, kept or maintained anywhere upon the Property, on any Lot or any Unit. No other animals except a domestic dog, cat or bird may be kept anywhere on the Property. No pet may be kept which abnormally interferes with the rights, comforts, or convenience of other Owners. Breeding of any animals on the Property is specifically prohibited. All pets must be kept on a leash when outside its Owner's dwelling or Unit.

Section 11.5 Landscaping. All surface areas disturbed by any activities on the Property shall be returned promptly to their natural condition. Any and all landscaping, other than returning surface areas to their natural condition, must be consented to in writing by the Design Review Board.

Section 11.6 Trade Names. No word, name, symbol, or combination thereof shall be used on the Property to identify for commercial purposes a structure, business or service.

Section 11.7 Continuity of Construction. All construction commenced anywhere on the Property shall be prosecuted diligently to completion.

Section 11.8 Noxious or Offensive Activity. No noxious or

offensive activity shall be carried on in or on the Property or upon any Lot, nor shall anything be done or placed anywhere on the Property which is or may become a nuisance or cause embarrassment, disturbance, or annoyance to others.

Section 11.9 Maintenance of Property. Every Lot and Unit shall be kept and maintained by the Owner thereof in a clean, safe, attractive, and sightly condition and in good repair; and no lumber, cut grass, shrub or tree clippings, plant waste, metals, bulk materials, scrap, refuse, inoperative vehicle or parts thereof, or trash shall be kept, stored, or allowed to accumulate anywhere on the Property.

Section 11.10 Annoying Lights, Sounds or Odors. No lights shall be emitted from any Lot which are unreasonably bright or cause unreasonable glare. No sound shall be emitted from any Lot which is unreasonably loud or annoying. No odor shall be emitted from any Lot which is noxious or offensive to others.

Section 11.11 Fences. No fences, walls or other barriers shall be permitted anywhere on the Property except with the prior written approval of the Design Review Board.

Section 11.12 Natural State. No hunting, target practice, discharge of firearms, or disturbance of the natural state of the Property, including the removal of living trees, plants, shrubs, bushes, sagebrush, grass or topsoil, is permitted without prior written consent of the Board of Managers or Design Review Board.

Section 11.13 Access to and Easements Benefitting Other Property. No Owner other than Declarant or its assignee shall use or permit the use of any Lot, or General Common Area, or any portion thereof, as access to, nor grant any access or utility easement upon any Lot or General Common Area for the benefit of, and real property not included within the Property subject to this Declaration, except as such access or easements are shown upon the recorded Plat.

Section 11.14 Emergency Access Easement. A perpetual non-exclusive easement is hereby granted to all police, sheriff, fire protection, ambulance and other similar agencies or persons in the lawful performance of such duties to enter upon the Property in the lawful performance of their duties.

Section 11.15 Vehicles and Miscellaneous Equipment. Automobiles, trucks, pickups, campers, motorbikes or motorcycles, trailbikes, trailers, snowmobiles, garden tractors, and equipment, or any other vehicle of any type, except bicycles, shall be parked, stored, or operated upon the Property only in areas designated for parking on the subdivision Plat or approved for such purpose by the Design Review Board, and in accordance with such rules and regulations as may be adopted by the Board of Managers or the Association. For the purposes of this Section, a "visitor" shall be a person who is not an Owner or the tenant of an Owner and who is visiting a Unit for a period of less than three weeks in

duration. No vehicles larger than a pickup truck (i.e. over the Highway tractor) shall be permitted on subject property other than for delivery of merchandise.

Section 11.16 Certain Recreational Vehicles. No motorized trail bikes or snowmobiles shall be operated anywhere within the property.

Section 11.17 Towers and Antennas. No towers or radio or television antennas or satellite dishes shall be erected on any lot.

Section 11.18 Drainage. No Owner shall do or permit any work, construct any improvements, piece any landscaping, or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Property, except to the extent such alteration of drainage patterns is approved in writing by the Design Review Board.

Section 11.19 Wood Burning Stoves and Appliances. Each Owner hereby covenants and agrees with the Town of Breckenridge that no wood burning appliances shall be installed at or upon the following described real property situate in the Town of Breckenridge, County of Summit, State of Colorado, to wit:

a portion of Lots 21-22, Snider Addition
(see attached Exhibit A)

As used in this Covenant, the term "wood burning appliance" shall mean any appliance, including fireplaces, wood stoves, wood furnaces and similar appliances, which utilize the burning of wood for heating, cooking or other similar purposes.

This Agreement shall be a valid and binding charge against the above described real property for a period of 99 years from the date of this Agreement, shall run with the land, and shall be fully enforceable against all subsequent owners of the above described real property for such period of time.

This Covenant may be enforced by the Town of Breckenridge in any court of competent jurisdiction.

Section 11.19 EMERGENCY ACCESS EASEMENT. A perpetual non-exclusive easement is hereby granted to all police, sheriff, fire protection, ambulance and other similar agencies or persons employed or authorized by such agencies to enter upon the Property in the performance of their emergency duties.

ARTICLE XII GENERAL PROVISIONS

Section 12.1 Enforcement. In addition to rights of enforcement specifically granted herein, the Board of Managers of the Association, the Declarant, any managing agent, or any Owner shall have the right to enforce, by a proceeding at law or in

equity, all restrictions, conditions, covenants, reservations, liens, rules, regulations, and charges now or hereafter imposed by or pursuant to the provisions of this Declaration. Failure by the Board of Managers of the Association, the Declarant, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Additionally, any such violation shall give the Declarant, the Board of Managers or any managing agent the right, in addition to any other rights set forth therein, (a) to enter the Lot, Unit or improvement thereon in which, or as to which, such violation or breach exists and to summarily abate and remove at the expense of the defaulting owner, any structure, thing or condition that may exist therein in violation of the Declaration, Articles of Incorporation or Bylaws of the Association or rules adopted by the Association or its Board of Managers, and the Board of Managers or any managing agent shall not be deemed guilty in any manner of trespass or any other civil or legal violation; and (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach, each Owner or other person constructing improvements upon the Property hereby waiving the posting of a bond upon entry of such injunction. All attorney's fees and costs incurred by the Declarant, the Association, its Board of Managers, or any managing agent in a suit to enforce the terms hereof shall, if such party prevails in such action, be recoverable from the losing party. Any expense to be borne by a violating Owner hereunder shall, if not paid within ten days of a demand for payment by the party seeking reimbursement of such expense, be considered an unpaid assessment by the Association against the violating Owner and may be recovered in any manner permitted under Article IX.

Section 12.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

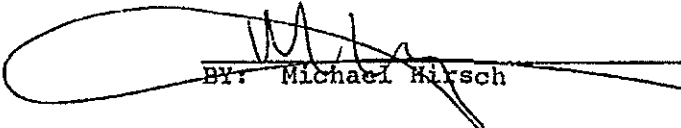
Section 12.3 Term and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by the Owners of not less than seventy-five percent (75%) of the votes that may be cast at a meeting of the Association; provided, however, that no provision regarding the reserved or other rights of the Declarant hereunder can be modified without the written consent of Declarant. Any amendment must be recorded.

In addition to the foregoing, until the Declarant has conveyed 100 percent of the Lots or July 1, 1997, whichever first occurs, Declarant reserves the right to amend this Declaration by the recordation of supplements as may be necessary to correct typographical errors, to make alterations that do not materially and adversely affect the rights or interests of an existing Owner or first mortgagee, or to make such amendments as may be necessary

to comply with the requirements of a lender making a purchase money loan to a purchaser of one or more Lots. Such amendment making reference to this Declaration and executed by Declarant.

Section 12.4 Management Agreement. The Board of Managers is authorized to enter into a management agreement on behalf of the Association with the Declarant or any other person it may select to manage, maintain, and operate any General Common Areas. The management agreement may continue in effect from year to year from the date of execution, or for such other period as the Board of Managers may specify, so long as it can be terminated by either party upon sixty (60) days written notice or by the Board of Managers for good cause at any time.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 23rd day of AUGUST, 1996.


BY: Michael Hirsch

STATE OF COLORADO

)
) ss
)

COUNTY OF SUMMIT

The foregoing instrument was acknowledged before me this 23rd day of August, 1996 by Michael Hirsch as President of Brittany Place of Breckenridge Townhomes Association, Inc. and as Declarant of Brittany Place of Breckenridge Townhomes.

Witness my hand and official seal.

My Commission expires:

August 20, 2000


Notary Public

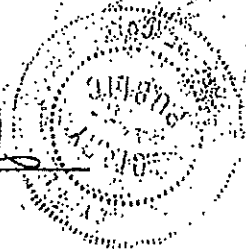


EXHIBIT A

The legal description of Brittany Place Townhomes is:

LOTS 21, 21 1/2, 22 AND 22 1/2 EXCEPT THE SOUTH 60 FEET OF
LOTS 22 AND 22 1/2, SNIDER'S ADDITION TO THE TOWN OF
BRECKENRIDGE ACCORDING TO THE PLAT FILED IN THE SUMMIT,
COUNTY COLORADO RECORDS.