

Recorded at 355 O'clock P M FEB. 16 1984

Reception 333250 M. S. Hivan, Recorder Routt County, Colo.

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CONDOMINIUM DECLARATION

FOR

BOOK 595 PAGE 0383

THE TORIAN PLUM CONDOMINIUM
OWNERS ASSOCIATION, INC.

The Torian Plum Venture, a Colorado joint venture, hereinafter called "Declarant", is the owner of the real property situate in the County of Routt, State of Colorado which property is described as Parcel C, Ski Hill Subdivision, (hereinafter, the "Property"), and hereby makes the following grants, submissions and declarations:

I.

RECITALS

1. Declarant desires to establish a condominium complex under the Condominium Ownership Act of the State of Colorado; and

2. By this Declaration a plan is established for the separate ownership in fee simple of the real property estates (condominium units) and for submitting the Property described in the Declaration to condominium use; and

3. Declarant desires to establish a plan for condominium ownership of 48 residential condominium units and 17 commercial condominiums known as The Torian Plum Condominium. Declarant further desires to reserve the right to amend this Declaration and file for record with the Clerk and Recorder for Routt County supplemental airspace map or maps establishing additional condominium units on the Property; provided, however, that said Amended Declaration, Supplemental Map and additional units are in conformity with the approved PUD plan for the Property and are approved by the City of Steamboat Springs. The Amended Declaration Supplemental Map and Additional Units must be added, if at all, within seven years of the recordation of this Declaration.

4. Declarant does hereby establish a plan for the ownership in fee simple of real property estates consisting of the area or space contained in each of the air space units in the building improvements and the co-

ownership by the individual and separate owners thereof, as tenants in common, of all of the remaining property, which property is hereinafter defined and referred to as the general common elements.

II.

DECLARATION

Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with the land, shall be a burden and a benefit to Declarant, its successors and assigns and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees or assigns.

1. Definitions. Unless the context shall expressly provide otherwise,

(a) 'Unit' means an individual air space unit which is contained within the perimeter walls, floors, ceilings, windows and doors of such unit as shown on the Condominium Map to be filed for record in the office of the Clerk and Recorder of Routt County, Colorado, together with all fixtures and improvements therein contained but not including any of the structural components of the building, if any, within a unit.

(b) 'Condominium unit' means the fee simple interest and title in and to a unit together with the undivided interests in and to the general and limited common elements.

(c) 'Owner' means a person, firm, corporation, partnership, cooperative association, association or other legal entity, or any combination thereof, who own(s) one or more condominium units.

(d) 'General common elements' means and includes the land on which the building is located, the structural components of the building, parking spaces, tennis courts, swimming pool, and other amenities as may be actually constructed and all other parts of such land and the improvements thereon necessary or convenient to its existence, maintenance and safety which are normally and reasonably in common use, including the air above such land,

all of which shall be owned, as tenants in common, by the owners of the separate units, each owner of a unit having an undivided percentage interest in such general common elements as is provided hereinafter.

(e) 'Limited common elements' means those parts of the general common elements which are either limited to and reserved for the exclusive use of an owner of a condominium unit or are limited to and reserved for the common use of more than one but fewer than all of the condominium unit owners, as may be indicated on the plat recorded herewith or as may be amended from time to time in the future, either as to existing limited common elements or as to new limited common elements created by Supplemental Declarations or by Supplemental Maps or Plats.

(f) 'Entire premises' or 'property' means and includes the land, the buildings, all improvements and structures thereon, all owned in fee simple absolute, and all rights, easements and appurtenances belonging thereto, together with such additional land, buildings and improvements as may be added from time to time.

(g) 'Condominium project' means all of the land and improvements submitted to this Declaration, and which may be added by Supplemental Declarations, Maps, or Plats.

(h) 'Common expenses' means and includes expenses of administration, operation and management of the units, and the expense of maintenance, repair or replacement of the general common elements' expenses declared common expenses by provisions of this Declaration and the By-Laws of the Association; and all sums lawfully assessed against the units and the general common elements.

(i) 'Association of Unit Owners' or 'Association' means The Torian Plum Condominium Owners Association, Inc., a Colorado corporation, not for profit, its successors and assigns, the Certificate of Incorporation and By-Laws of which shall govern the administration of this condominium property, the members of which shall be all of the owners of the condominium units.

(j) 'Map' or "Supplemental Map" means and includes the engineering survey of the land locating thereon all of the improvements, the floor and elevation plans and any other drawing or diagrammatic plan depicting a part of or all of the improvements and land.

(k) 'Commercial Building' are those shown on page one of the Plat and labeled Commercial Buildings C, D-South, D-North, and E. Declarant anticipates creating and establishing Condominium units limited exclusively to commercial use in said Commercial Buildings pursuant to Declarant's rights to file an Amended Declaration and Supplemental Map set forth herein. Declarant furthermore intends to create commercial condominium units on the first and second floors of both residential condominium buildings as more specifically illustrated on the plat and airspace maps recorded simultaneously herewith.

(1) "Commercial Unit" means a condominium unit which is limited exclusively to commercial use and which is, or will be, located in the Commercial Building, or in the first and second floors of the Residential Buildings.

2. Condominium Map. Upon substantial completion of each phase and prior to any conveyance by Declarant of a condominium unit therein, Declarant shall cause to be filed for record in Routt County, Colorado, a condominium map which shall contain sufficient survey description of the airspace of each apartment unit so as accurately to locate the same, together with such other information as may be included in the discretion of Declarant, and together with:

(a) The legal description of the real property being subjected to this Declaration, initially or as Additional Property, and a boundary survey thereof;

(b) The linear measurements and location, with reference to surveyed points on the exterior boundary of the land, of the completed foundations of the building or buildings on such real property;

(c) The diagrammatic floor plans and linear horizontal and vertical dimensions of the perimeter of each airspace apartment unit;

(d) The designation by number or other description of each apartment unit and each building;

(e) The location of each airspace apartment unit within each building, both horizontally by linear measurements and vertically by reference to elevations as established from a datum plane, including measurement of the thickness of common walls and floors between or separating units and perimeter walls of each building; and

(f) General depiction of and designation of limited common elements, without necessity to show the dimensions and exact surveyed location thereof, except as otherwise required by this paragraph.

The Map or Supplemental Map may be filed for record in whole or in parts, sections or supplements, as construction of the units and other improvements are substantially completed, all of which parts, sections or supplements shall be considered the integrated condominium Map or Supplemental Map and reference in any deed or other instrument to the filing date of the first part, section or supplement of the Map or a Supplemental Map shall be deemed to include reference to all parts, sections or supplements of the Map or Supplemental Map, respectively, thereafter filed of record. Each such Map or Supplemental Map (and each separately filed part or section thereof) shall contain the certificate of a registered professional land surveyor, certifying that the Map or Supplemental Map (or part or section thereof, as the case may be) accurately depicts the above data and was prepared subsequent to substantial completion of the improvements depicted thereon. Declarant reserves the right to amend the Map to conform it to the actual location of any building (including all parts thereof) and to establish, vacate and relocate easements.

3. Division of Property into Condominium Units.
A portion of the Property (Parcel C, Ski Hill Subdivision, as defined in the introductory paragraph to this declaration) has been described on the Plat and divided into 48 residential units and 17 commercial units. Those units shall jointly own 100 percent of the common elements in the amounts as set forth on attached Exhibit "A". The formula for allocation of the percentage undivided interest in the common elements is based upon a fraction, the numerator of which is the square foot area for the specific unit and the denominator of which is the total square footage of the 48 residential units and the 17 commercial units. As additional units are added to the Condominium Project by expansion into the remaining portion of the Property, the percentage of undivided interest in the common elements shall be reallocated as to all units subjected to this Declaration upon the same square footage formula and an amended Exhibit "A" shall be recorded from time to time as required to reflect same. Declarant intends to subject to this Declaration a total of no more than one hundred units within the total development period of seven years. It is