

STATE OF WEST VIRGINIA) DECLARATION OF TOP OF THE WORLD CONDO-
) MINUM AT SNOWSHOE HORIZONTAL PROPERTY
COUNTY OF POCOHONTAS) REGIME

KNOW ALL MEN BY THESE PRESENTS, this Declaration is made on the date hereinafter set forth by Snowshoe Summit Development Company, II, hereinafter called the Declarant, a West Virginia Joint Venturer, with its principal office and place of business at Box 88, Snowshoe, West Virginia.

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of certain real property, buildings and improvements thereon located in the County of Pocahontas, State of West Virginia, which is more particularly described in the Exhibits attached hereto and incorporated herein by reference (herein after referred to as "The Property");

WHEREAS, Declarant now desires further to submit The Property to the provisions of the uniform Condominium Act of West Virginia, Chapter 36B, of the West Virginia Code of Laws (hereinafter referred to as "The Act") hereby creating a regime known as the Top of the World Condominium at Snowshoe (herein sometimes called "The Regime" or the "Condominium") and

WHEREAS, Declarant desires to publish a plan for the individual ownership of the several apartments and Commercial space of the Property together with an undivided ownership interest in the general common elements and limited common elements of the Property as defined herein and in the Act; and

WHEREAS, Declarant desires to convey the Property pursuant to and subject to certain protective covenants, conditions, restrictions, reservations, liens and charges hereinafter set forth;

NOW, THEREFORE, Declarant does hereby submit the Property to the provisions of the Uniform Condominium Act of West Virginia, Chapter 36B and hereby publishes its plan to the division of the property and the imposition of conditions, restrictions, reservations, liens and charges thereon and the individual ownership thereof, and Declarant hereby specifies that this Declaration shall constitute covenants, conditions, reservations and restrictions which shall run with the Property and shall bind

and inure to the benefit of the Declarant, its successors and assigns and all subsequent owners of any interest in the Property, their grantee, successors, heirs, executors, administrators, legatees and/or assigns.

ARTICLE I

Definitions

As used in this Declaration and all Exhibits hereto, all amendments hereof and thereof unless the context otherwise requires, the following definitions shall prevail:

A. Apartment. The floor plan and dimensions of each are as shown in the Exhibits hereto.

B. Assessment means a share of the funds required for the payment of common expenses or capital improvements or expenses which from time to time are assessed to some or all of the Co-Owners.

C. Building means as defined in the Act.

D. By-Laws means the By-Laws of the Council of Co-Owners of the Regime as they exist from time to time.

E. Commerical Ratio means it is the ratio which the proportionate interest of the commercial space retained by the Declarant shall bear in the expenses and costs of the condominium to the aggregate interest of all costs and expenses.

F. Common Elements means and includes all of the Property excluding the Apartments and specifically includes both the general common elements and limited common elements.

G. Common Expenses means and includes:

(1) All expenses incident to the administration, maintenance, repair and replacement of the Property after excluding therefrom any and all expenses which are the responsibility of a particular Co-Owner as hereinafter set forth;

(2) Expenses determined by the Council of Co-Owners to be common expenses:

(3) Expenses in this Declaration and/or its Exhibits denominated as common expenses; and

(4) Any other expenses declared by the Act to be common expenses.

H. Common Surplus means the excess of all receipts of the Council of Co-Owners over and above the amount of common expenses and not otherwise reserved or designated for a specific use.

I. Condominium Ownership means as defined in the Act.

J. Condominium Unit or Unit means an individual apartment as defined herein and as described in the Exhibits hereto together with an undivided share of the common elements, vote, common surplus and liability for common expenses and other assessments appurtenant thereto.

K. Declarant means Snowshoe Summit Development Company, II, its successors and assigns and such others as defined by the Act.

L. Declaration means this Declaration establishing and recording the Property of the Regime.

M. Documents means this Declaration and all Exhibits annexed hereto as they may be amended from time to time.

N. Executive Board means the Board of Directors or other Body in charge of the Council of Unit Owners.

O. Exhibits means the exhibits to this Declaration.

P. General Common Elements means as defined in the Act.

Q. Institutional Mortgagee means a bank, savings and loan association, insurance company or union pension fund authorized to do business in the United States of America, an agency of the United States Government, a real estate or mortgage investment trust, the Declarant, its parent, any other subsidiary of its parent or a lender generally recognized in the community as an institutional type lender, having a lien on the Property or any part or parts thereof.

R. Limited Common Elements means common property for use by all units.

S. Long Term Lease means those certain leases and agreements which are or shall be added by amendment to the Exhibits to this Declaration and to which the Council of Co-Owners and each and every Co-Owner in bound.

T. Occupant means any person or persons in resident in an Apartment.

U. Property means and includes the property as it may exist from time to time shown as contained within the Regime as described in the Exhibits hereto and includes the land, the buildings, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto and subject to all easements, rights of way and rights of use as described herein and/ or in the Exhibits and/ or of record. The Property shall not include until, but shall include upon proper annexation and amendment hereto, all land together with improvements, easements, rights-of-way and rights of use described herein, in the Exhibits and/ or of record.

V. Residential Ratio means the ratio which the proportionate interest of a Residential Unit Owner bears to the aggregate proportionate interest of the condominium.

W. To Record means as defined in the Act.

X. Uniform Condominium Act means and refers to Section 36B-1-101 through Section 36B-4-115 of the Code of Laws of West Virginia.

Y. Unit Owner means as defined in the Act, and specifically owning an Apartment in the Regime.

Z. Unit Owners Association means as defined in the Act and specifically the Council of Unit Owners Association (a non-profit corporation).

ARTICLE II

TOP OF THE WORLD CONDOMINIUM AT SNOWSHOE

HORIZONTAL PROPERTY REGIME

Unit Owners Association

1. Responsibility for Administration: The administration of the Regime and the maintenance, repair, replacement and operation of the common elements as herein provided, the enforcement of all rules, regulations, by-laws, and those acts required of the Unit Owners Association by the Declaration, and/or by the Act shall be the responsibility of Top of the World Condominium at Snowshoe Unit Owners Association, Inc. Such administration shall be in accordance with and under the powers granted by the provisions of the Act, this Declaration and the By-Laws of the Unit Owners Association (a corporation not for profit).

2. Agreements: The Unit Owners Association through its Executive Board shall be and hereby is authorized to enter into such agreements and to bind itself and all unit owners as it may deem necessary or desirable for the administration and operation of the Regime. Each Unit Owner buying, acquiring or holding a interest in any unit thereby agrees to be bound by the terms and conditions of all such agreements entered into or to be entered into by the Executive Board on behalf of the Unit Owners Association. A copy of all such documents shall be made available at the office of the Unit Owners Association for review by each unit Owner.

3. Voting Rights:

A. For each residential unit owned, one person (who shall be the Residential Unit Owner if only one person owns the unit) shall be designated and known (and is hereinafter referred to) as the "Voting Member". If a unit is owned by more than one person the Co-Owners of said unit shall designate one of them as the Voting Member or in the case of a corporate Unit Owner, an officer or employee thereof shall be the Voting Member. In any case the designation of the Voting Member shall be made as provided by and subject to the provisions and restrictions set forth in the By-Laws of the Unit Owners Association. The vote (which is the total vote appurtenant to that Apartment) of each Voting Member shall not be divisible.

There shall be appurtenant to each Apartment one (1) vote, which shall be voted by the Voting Member at all matters to come before the Unit Owners Association. The Voting Member of each said apartment respectively shall vote the vote appurtenant to that apartment without further division. The vote assigned to each apartment shall be identical to its percentage of ownership as stated in Exhibit "2" Attached hereto.

B. The ground level commercial space owned by the Declarant shall be assigned 1 vote in the Unit Owners Association. It is anticipated that the Commercial space shall be partitioned by the Declarant. However, the Declarant or his designee shall be the voting member of the Unit Owners Association with full rights to cast 1 vote which shall be equal to its percentage of ownership as set forth in Exhibit "2" attached hereto and shall be subject to the provisions and restrictions set forth in the By-Laws of the Unit Owners Association. The Commercial space vote shall not be divisible.

C. Each Voting Member shall be entitled to cast his vote at any meeting of the Unit Owners Association. He shall be entitled to attend such meeting or meetings in person to vote or to case his vote by proxy, if allowed, as is provided in the By-Laws of the Unit Owners Association.

ARTICLE III

Option to Expand

L Background: The Declarant has a contract right to purchase an additional tract of land located immediately adjacent to the northwestern boundary of the Top of the World Condominium tract on which it anticipates the construction of an additional condominium regime which will be separate and independant of Top of the World Condominium at Snowshoe but may be connected therewith by a covered walkway attached to the ground floor commercial level.

The Declarant reserves an easement of right of way over the northwestern corner of the Top of the World Condominium surface area to construct said walkway and further reserves the right to attach the same to the condominium building structure.

The cost of constructing, maintaining and operating the connecting walkway "accessory facility costs" shall in no way be considered an expense of Top of the World Condominium at Snowshoe and shall be born entirely by the new condominium regime anticipated.

2. Expansion Election: The Declarant hereby reserves the right to connect to the ground floor level of Top of the Wolrd Condominium the walkway facilities. Said right is authorized upon election of the Declarant without the need for further act or notice hereunder.

3. Assurance: This Declaration contemplates that the improvements erected on the adjacent parcel including the connecting walkway shall not be, at any time, owned by or part of Top of the World Condominium at Snowshoe. As a consequence, the Condominium will not have at anytime, any responsibility for the cost of said covered walkway or areas that are located on the parcel shared by an ajdoingin condominium regime. Therefore, this Declarant provides no assurance with respect to such

improvement except that should the same be constructed, it shall be compatible in terms of quality, material, size and style with the building comprising the Top of the World Condominium at Snowshoe. In the event that a condominium regime is not constructed on the parcel adjacent to Top of the World Condominium at Snowshoe prior to November, 1989, the right to construct the accessory facility shall terminate.

ARTICLE IV

Property Rights

1. Composition of Property: The Condominium Regime consists essentially of a building, containing four (4) levels as follows:

- (1) Commercial Unit located on the ground floor of the building;
- (2) Eighty-four (84) residential units located on the buildings other three floors;
- and (3) Common Elements.

2. Residential Units: For the purpose of identification, all apartments in the building located in the Horizontal Property Regime are identified by number and letter and are delineated and described in the Exhibits hereto which are made a part of this Declaration. No apartment bears the same identifying number and letter combination as does any other apartment. The aforesaid identifying number and letter combination is also identifying number as to unit (comprising both the apartment and undivided shares in the common element, vote, common surplus and obligation for common expense and other assessments pertinent thereto). The Exhibits hereto which are incorporated herein contain a survey of land, a graphic description of the improvements showing where the building is located and the location of the commercial area and apartments within, and together with this Declaration, can identify the location, deminsion and size of the common elements in each Residential apartment. The aforesaid building and apartments therein and other improvements are constructing substantially in accordance with the plot plan description and survey.

3. Ownership:

(a) The Declarant (owner of the Commercial area) and the Unit Owners shall own together an undivided interest in the common elements and such undivided interests as stated as a percentage of ownership in the

said common elements as is set forth in the Exhibits attached hereto and made a part hereof.

(b) Fee title to each Residential Unit shall include both the apartment and the above respective undivided interest in the common elements, said undivided interest of the common elements to be deemed to be conveyed to and encumbered as a part of each respective unit. Any attempt to separate the fee title to an apartment from the undivided interest in the common element shall be null and void. The right of a Unit Owner to sell, transfer, or otherwise convey his or her unit is not and shall not be subject to any right of first refusal or similar restrictions.

4. Use of Common Elements: The Unit Owners Association and Unit Owners thereof, the Declarant, the successors and assigns of each, and all parties who own or may own an interest in and to the common elements and any of them shall have no right to bring any action whatsoever for partition or division of the real property which constitutes the common elements. Initial Rules and Regulations governing the use of the Property shall be promulgated by the Declarant and/or the Executive Board, which may be amended by the Executive Board in the manner herein provided. Such Rules and Regulations shall be posted in conspicuous places upon the common elements. The Declarant and each Unit Owner by his purchase of a unit and acceptance of delivery of such conveyance shall be bound by all such Rules and Regulations shall be solely responsible for obedience by the Unit Owner, his family, guests and all occupants of his apartment, the Declarant, and any lessee of the Commercial space from the Declarant. Should a Unit Owner or the Declarant fail to pay an assessment as required under the terms of this Declaration for the period of time as specified herein and the same becomes delinquent, the Unit Owners Association may deny the Unit Owner and/ or any occupant(s) of that Unit Owner's apartment and the Declarant and/or Lessee of Commercial space, as to the the use and enjoyment of the common elements until such time as all assessments are paid. The Unit Owner Association shall have the right in its sole discretion to suspend any Unit Owner and/ or occupant of that Unit Owner's apartment or the Declarant as to Commercial space or any lessee of his,

from the use of the common elements for a period not to exceed thirty days for any infraction of promulgated Rules and Regulations pertaining to the common elements. Should such rights of the use and/or occupancy be suspended, there shall be no reduction in the assessments due and payable by the Unit Owner, or the Declarant or his lessee as to Commercial space. Any person actually occupying an apartment or Commercial space shall use the general common elements and those limited common elements preserved for the use of that apartment during the time said occupant is actually in residence in the apartment. Guests and invitees of an occupant or an apartment and/or the Unit Owner and the Declarant and/or any commercial lessee may only be permitted to use the common elements with expressed permission of the Unit Owners Association and subject to such terms and conditions as the Unit Owners Association may determine at its sole discretion including the payment of additional compensation therefor, it being understood and agreed that said common elements are primarily designated for the use and enjoyment of the occupants of the apartments and their invitees and the Commercial lessees and their customers and the Unit Owners Association shall determine the manner and method in which the common elements are to be used and under what circumstances.

4. Limited Common Elements: Those areas which are or will be reserved for the use of occupant(s) of certain apartment(s) to the exclusion of others are and/or shall be designated as limited common elements. Any expense for maintenance, repair or replacement relating to limited common elements shall be treated as, and paid for as, part of the common expenses unless otherwise specifically provided in this Declaration and the Exhibits hereto. Parking spaces are located with the common element parking area shown and designated in the Exhibits. No parking spaces shall be assigned to any particular apartment or apartments or commercial space nor shall they be numbered unless mutually agreed to by all Unit Owners and their institutional Mortgagees of record (in which case such assigned parking spaces shall be Limited Common Elements); provided, however, the occupants of each Apartment shall be entitled to the use of at least one parking space and such additional parking spaces as may be determined by the Executive Board.

5. Common Expenses:

a. All costs of maintenance, repair and replacements of Common Elements (including General Common Elements and Limited Common Elements) necessitated by the negligence or misuse by any occupant of an Apartment or lessee of Commercial space shall be borne solely by the Unit Owner of such Apartment or the lessee of such Commercial space and the Executive Board shall have the right to assess such Unit Owner or Commercial lessee for such costs.

b. All other costs of maintenance, repair, replacement, preservation and improvement of the Common Elements (including General Common Elements and Limited Common Elements) shall be, unless the Executive Board otherwise decides, Common Expenses.

6. Development Plan:

a. Declarant has initially included within the Condominium certain property and improvements including one building containing a ground floor of commercial space and 84 apartments numbered the same being shown and designated in the Exhibit "I" attached hereto. By reason thereof, there is appurtenant to each apartment an equal undivided percentage share of ownership interest in the Common Elements and an undivided percentage share of ownership of the Commercial space in the common elements. In that regard, the ground floor commercial area is declared a 25% owner of the common element and the three (3) residential levels are declared 75% owner of the common element. There is appurtenant to each residential apartment 1 vote to be voted by the voting member at all matters to come before the Unit Owners Association and 1 vote assigned to the Commercial space. Each vote value shall be based on the percentage of ownership as defined in Exhibit "I" attached hereto.

ARTICLE IV

Architectural Control

To preserve the original architectural appearance of the Condominium, no exterior construction of any nature whatsoever except as specified in this Declaration shall be commenced or maintained upon any Building and/or Common Element and all such additions as are herein

specified shall be architecturally compatible with existing structures. No Unit Owner or commercial lessee shall paint, decorate or change the color of any exterior surface, gate, fence or roof, nor shall any Residential Unit Owner change the design or color of the exterior or lighting, nor shall any Residential Owner install, erect or attach to any part of the exterior any sign of any kind whatsoever, nor shall any exterior addition or change, including, without limiting the generality of the foregoing, the erection or construction of any fence or wall, be made unless and until plans and specifications showing the nature, kind and shape, height, material, color and location of the same shall have been submitted and approved in writing as to harmony of exterior design, color and location in relation to the surrounding structures by the Executive Board (or its designee), all Institutional Mortgages and so long as Declarant, or its successors or assigns, owns one or more units in the Condominium, the Declarant or its successors and assigns. Failure of the Executive Board (or its designee) and, if appropriate, of the Declarant to approve or disapprove such plans and specifications within sixty days after their being submitted in writing shall constitute approval.

ARTICLE V

Expenses and Common Surplus

The common expenses of the Condominium and the monetary obligations of the Unit Owners under any agreements entered into by the Unit Owners Association shall be shared by the Unit Owners and Declarant (Commercial space) in the percentages set forth in the Exhibits. Such percentages shall not be altered because of any increase or decrease in the purchase price or square footage of an Apartment or because of its location.

The Declarant and each Unit Owner's interest in the Common Surplus (if any) shall be equal to his interest in the Common Elements.

ARTICLE VI

Amendment of the Declaration

This Declaration may be amended at the regular or any special meeting of the Unit Owners Association of the Condominium, called and convened in accordance with the By-Laws, upon the affirmative vote of

sixty-seven percent of all the Voting Members (Residential and Commercial) of the Unit Owners Association; provided, however, that this Declaration may not be cancelled nor any amendment be made hereto having as its effect a termination of the Condominium without the written agreement of all the Unit Owners and the Declarant in the Condominium and all Institutional Mortgagees holding mortgages of record upon the Condominium or any portion thereof, as provided in The Act.

All amendments hereto shall be recorded and certified as required by The Act. No amendment(s) shall change any Apartment, any Unit and Commercial space or the proportionate share of the Common Expenses or Common Surplus attributable to each, nor the voting rights of any Unit (Residential or Commercial) , unless the Declarant and all Unit Owners of the Condominium and all mortgagees holding any mortgages or other liens upon the property or any part(s) thereof shall join in the execution of such amendment. No amendment shall be passed which shall impair or prejudice the rights and/ or priorities of any Institutional Mortgagee or change the provision of this Declaration with respect to Institutional Mortgages without the written approval of all Institutional Mortgagees of record.

No amendment shall change the rights and privileges of Declarant, its successors and assigns, without written approval and consent of the Declarant, or its successors or assigns.

Notwithstanding the foregoing provisions of this Article, the Declarant reserves the right to alter the interior design and arrangement of all Apartments and partition the ground floor commercial space and to alter the boundaries between Apartments as long as the Declarant owns all the Apartments so altered; however, no such change shall increase the number of Apartments or amount of commercial space nor alter the boundary of the Common Elements except the party wall between any Apartments, without amendment of this Declaration in the manner herein set forth. If the Declarant shall make any changes in Apartments as provided in this paragraph, such changes shall be reflected by an amendment of this Declaration with a survey and plot plan attached reflecting such authorized alteration of Apartments and said amendment

need only be executed and acknowledged by the Declarant and any holder or mortgage(s) encumbering the said altered Apartments. Such survey shall be certified in the manner required by The Act.

Notwithstanding the foregoing provisions of this Article, it is understood and agreed that as of the time this Declaration is dated and recorded in the public records of Pochonotas County, West Virginia, all of the improvements shown in the Exhibits may not be completed; however, said improvements shall be as and located as described and shown in the Exhibits; provided, however, that all improvements must be completed within fourteen months of the date of this Declaration; provided, however, said time may be extended by virtue of delays caused by Acts of God, Acts of governmental authorities, strikes, labor conditions or any other condition(s) beyond Declarants control.

ARTICLE VII

By-Laws

The operation of the Condominium shall be governed by the By-Laws of the Top of the World Condominium at Snowshoe Unit Owners Association, Inc. which are attached to this Declaration and made a part hereof.

No modification of, or amendment to, the By-Laws of the Unit Owners Association shall be valid unless set forth in or annexed to a duly recorded amendment. The By-Laws may be amended in the manner provided for therein and in The Act, but no amendment to said By-Laws shall be adopted which will affect or impair the validity or priority of any mortgage upon the Property or any portion thereof without written consent of the mortgagee thereof and of all Institutional Mortgagees of record. No amendment shall change the rights and privileges of the Declarant without written approval of the Declarant, its successors or assigns.

ARTICLE VIII

The Operating Entity

The operating entity of the Condominium shall be Top of the World Condominium at Snowshoe Unit Owners Association, Inc. The Unit Owners Association shall have all the powers and duties set forth in The Act as well as the powers and duties granted to and imposed upon it by

the Declaration and the By-Laws of the Unit Owners Association (a corporation not for profit), and, in addition, all other powers and duties necessary to operate the Condominium, which shall be exercised through its Executive Board; provided, however, that in the event of conflict the provisions of The Act shall control.

Every Unit Owner, whether he has acquired his Unit by purchase, gift, devise or other conveyance or transfer, by operation law or otherwise and the Declarant (Commercial space owner), shall be bound by this Declaration, The Act, the By-Laws, all other Exhibits hereto and any and all Rules and Regulations of Top of the World Condominium at Snowshoe Unit Owners Association, Inc.

ARTICLE IX

Assessments

The Unit Owners Association, through its Executive Board, shall have the power to fix and to provide for the Common Expenses of the Condominium and such other sums as are necessary for the care, repair, replacement, maintenance, preservation and improvement of the Property to meet the pro-rata share of expenses payable by the Declarant and the Unit Owners for maintaining streets, roads, roadside areas, entrance ways and exterior lighting within and for Top of the World Condominium at Snowshoe (Condominium) as hereinafter described (which shall be included as items of Common Expense). The Executive Board shall have the power to fix and determine from time to time the sum or sums necessary and adequate to provide the Common Expenses of the Condominium and such other expenses as are provided for herein, in The Act, or deemed necessary and appropriate expenses of the Condominium, The procedure for the determination of sums necessary and Assessments upon Unit Owners and the Declarant as to Commercial space and the method of collection of the same shall be as set forth in the By-Laws of the Unit Owners Association, as provided herein and in the Exhibits hereto and in The Act.

The Unit Owners Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the common areas and those limited common areas which the association may be obligated to maintain. The funds shall be maintained out of the regular assessments for the common expenses.

In addition to the above, the Unit Owners Association shall establish a working capital fund for the initial months of the operation of the regime equal to at least two months estimated common area charged for each unit (Commercial or Residential). Each unit share of the working capital fund will be collected and transferred to the association at the time of closing of the sale of each unit's estate and maintained in a segregated account for the use and benefit of the Unit Owners Association. The purpose of the fund shall be to insure that the Executive Board will have cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable by the Board. Amounts paid into the fund shall not be considered as advance payment of regular monthly assessments.

The Declarant and a Unit Owner shall become liable for the payment of Assessments upon issuance of a statement of Assessment by the Executive Board of the Unit Owners Association.

Assessments that are unpaid for over ten (10) days after due date shall bear interest at the maximum legal rate per annum from due date until paid, and at the sole discretion of the Executive Board (and if not forbidden by law), a late charge not to exceed \$5.00 shall also be due and payable to defray the expense of late collection. Regular Assessments shall be due and payable on the first day of each month and monthly bills for the same need not be delivered or mailed to the Declarant and the Unit Owners by the Board; provided, however, that on or before December 1st of the preceding year the amount of regular monthly Assessments due from each Unit Owner and the Declarant for each month of that year shall be mailed by the Executive Board to each Unit Owner and Declarant and provided further that a notice of any increase or decrease in regular monthly Assessments shall likewise be mailed or delivered to each and every Unit Owner and the Declarant by the Executive Board no later than thirty (30) days prior to the time of the first regular monthly Assessment so changed shall be due.

Further, the Executive Board, on behalf of the Association, shall have a lien on each Apartment and Commercial space together with the Common Elements appurtenant thereto in the amount of each Assessment

not paid when due as provided in The Act, which may be collected and/ or the lien foreclosed upon as provided in The Act. Reasonable attorney's fees incurred by the Executive Board incident to the collection of such Assessments or the enforcement (including but not limited to foreclosure) of such lien together with all sums advanced and/ or paid by the Unit Owners Association for taxes and payments on account of a superior mortgage lien(s) or encumbrance(s) which may be required to be advanced by the Unit Owners Association to preserve and/ or protect its lien shall be payable by the delinquent Unit Owner or Declarant and secured by such lien. The Executive Board may take such action as it deems necessary to collect Assessments as provided in The Act and further may settle and /or compromise the same if deemed in its best interest.

No mortgagee of any mortgage of record or other purchaser of an Apartment who obtains title to the same at the foreclosure sale upon foreclosure of such mortgage shall be liable for the share of the Common Expenses or Assessments accruing after the date of recording of such mortgage but prior to the acquisition of title by such acquirer, as is provided in The Act. Each Mortgagee of record shall be provided, if so requested, with the annual estimated budget of the Condominium and any financial statement of the Condominium and/or the Unit Owners Association. Except in the foregoing circumstances, any acquirer shall be jointly and severally liable for such expenses with the former Unit Owner, as provided in The Act.

Any lien of the Unit Owners Association for common expense assessments or other charges levied pursuant to Section 36B-3-102(10), (11), and (12) of the West Virginia Code, becoming payable on or after the date of recordation of the first mortgage of any Unit in the regime shall be subordinate of said first mortgage. A lien for common expense assessments shall not be effected by any sale or transfer of the Unit except that a sale or transfer pursuant to a foreclosure of a first mortgage shall extinguish the subordinate lien for assessments which become payable prior to such sale or transfer. However, any such delinquent assessments which were extinguished pursuant to the foregoing provisions may be reallocated and assessed the total units in the regime as a common

expense. Any such sale or transfer pursuant to a foreclosure shall not relieve the purchaser or transferee of a Unit from liability for nor the Unit itself from the lien of, any assessment made thereafter.

The Executive Board shall have the right to assign any claim and/or lien rights for the recovery of any unpaid Assessments.

No Unit Owner or Declarant as to Commercial space may exempt himself from liability for his share of the Common Expenses or any other Assessment by waiving the use or enjoyment of any of the Common Elements or by abandoning his Apartment or commercial space.

ARTICLE X

Insurance

The Executive Board of the Unit Owners Association shall obtain insurance upon the Property insuring it (including common elements, commercial space, and all apartments) against all risks, as provided in The Act, all premiums of which shall be included as part of the Common Expenses.

Section 1. The Executive Board on behalf of the Unit Owners Association shall obtain an extended insurance coverage upon the property and improvements thereon, including the apartments and common elements, insuring the Unit Owners and their mortgagees against loss from fire, earth quake, flood, vandalism and the elements (wind storm, etc.) in amounts efficient to completely restore and replace the damage and or destroyed elements in the event of loss. Said blanket policy shall also cover all common personal property and supplies and other common personal property belonging to the Unit Owners Association. In addition, any fixtures, equipment or other property within the individual units which are to be financed by mortgages to be purchased by FNMA shall be covered by the blanket policy.

The blanket insurance policy shall be in an amount equal to 100% of the current replacement cost of the condominium including the apartments and the common elements exclusive of land, foundation, excavation and other items normally excluded from such coverage.

The policy shall be issued in the name of the Top of the World Condominium at Snowshoe Unit Owners Association for the use and benefit

of the individual owners. The policy may also be issued in the name of an authorized representative of the Owners Association including an insurance trustee should the Unit Owners Association choose to enter into an insurance trust agreement or any successor to such trustee for the use or benefit of the individual owners. Loss payable shall be in favor of the Unit Owners Association (or insurance trustee should one be used) as a trustee for each unit owner and each such unit owners mortgagee. Each unit owner and each such unit owners mortgagee, if any, shall be beneficiaries of the policy as provided hereinbelow. Evidence of insurance shall be issued to each unit owner and mortgagee upon written request.

The blanket policy shall include the standard mortgage clause or equivalent endorsement (without contribution) which is commonly accepted by private institutional mortgage investors which appropriately names FNMA or FNMA possessive servicer in the policy if FNMA is a holder of one or more of the first mortgages on the units within the condominium. If a servicer is named as a mortgagee in the mortgage clause, the services name shall be followed by the phrase "its successors and assigns".

The blanket insurance policy may not be cancelled or substantially modified without ten (10) days prior written notice to the Unit Owners Association and to each holder of a first mortgage which is listed as a schedule holder of a first mortgage in the insurance policy.

The blanket policy must provide for the following:

- (a) Recognition of any insurance trust agreement;
- (b) A waiver of the right of subrogation against unit owners individually;
- (c) The insurance is not prejudice by any act or neglect of individual unit owners which is not in the control of such owners collectively;
- (d) The policy is primary in the event the unit owner has other insurance covering the same loss.

Section 2. Nothing herein contained or contain in the By-Laws shall prevent or prejudice the right of each Unit Owner and/or his mortgagee(s) from insuring his apartment on his account and for the benefit of himself and/or his mortgagee(s) .

Section 3. Reconstruction: Any repair and/ or restoration must be substainally in accordance with the plans and specifications for the original Buildings and improvements or as the Buildings or improvements were last constructed or according to plans approved by the Executive Board and all Institutional Mortgagees of record, which approval shall not be unreasonably withheld.

Section 4. Power to Compromise Claims: The Executive Board hereby irrevocably appointed agent for each Unit Owner for the purpose of compromising and settling claims arising under insurance policies purchases under the provisions of this Article and to execute and to deliver releases therefor upon the payment of claims.

Section 5. Liability insurance: The Unit Owners Association shall maintain comprehensive general and liability insurance covering all of the common areas, public ways located in the condominium.

The amount of said liability insurance shall not be less than \$1,500,000.00 per occurrence and coverage under the policy shall include, without limitation, legal liability of the insured for property damage, bodily injury and death of persons in connection with the operation, maintenance, or use of the common areas, and legal liability arising out of law suits relating to employment contracts of the Unit Owners Association.

The liability insurance policy shall provide that it shall not be cancelled or substantially modified by any party without at least ten (10) days prior written notice to the Unit Owners Association, and to each holder of a first mortgage which is listed as a schedule holder of a first mortgage in the policy.

Section 6. Institutional Mortgagees' Right to Advance Premiums: Should the Unit Owners Association fail to pay insurance premiums when due or should the Unit Owners Association fail to comply with other insurance requirements required herein or by The Act or imposed by Institutional Mortgagees having the right to impose the same, said Institutional Mortgagees or any one of them shall have the right to obtain insurance policies and to advance such sums as are required to maintain or procure such insurance and to the extent of the monies so advanced said mortgagee(s) shall be subrogated to the Assessment and lien rights of the Unit

Owners Association and its Executive Committee against the individual Unit Owners for reimbursement of such sums.

Section 7. Fidelity Bond: The Unit Owners Association shall require a blanket fidelity bond for all officers, directors, trustees and employees of the association and all other persons handling or responsible for funds of or administered by the Unit Owners Association. Furthermore, where the association delegates some or all of responsibility for the handling of funds to a management agency, a similar bond is required for its officers, employees and agents handling or responsible for funds of or administered on behalf of the Unit Owners Association.

The total amount of fidelity bond coverage shall be based upon the best business judgment and shall not be less than the estimated maximum of funds including reserve funds in the custody of the Unit Owners Association or the management agency as the case may be, at any given time during the term of each bond. However, in no event shall the aggregate amount of such bonds be less than a sum equal to 3 months aggregate assessments on all units plus reserve funds.

The above referred to fidelity bond shall:

- (a) Name the Unit Owners Association as the obligee;
- (b) Contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expresses;
- (c) The premiums on all bonds shall be paid by the Unit Owners Association as a common expense;
- (d) The fidelity bonds shall not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days prior written notice to the Unit Owners Association or, to any insurance trustee and any servicer on behalf of the Federal National Mortgage Association.

Section 8. Insurance Trustee: Notwithstanding any of the foregoing provisions and requirements relating to liability insurance, there may be named as an insured, on behalf of the Unit Owners Association, its authorized representative, including any trustee with whom the association may enter into any insurance trust agreement or any successor to said

trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance.

Each unit owner does hereby appoint the Unit Owners Association, or any insurance trustee or substitute insurance trustee designated by the Unit Owners Association, as attorney-in-fact for the purpose of purchasing and/or maintaining such insurance, including:

the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; and the performance of all other acts necessary to accomplish such purpose. The Unit Owners Association or any insurance Trustee shall dispose of any proceeds of insurance in trust for unit owners and their first mortgage holders as their interest may bear herein.

Section 9. Other Insurance: The Executive Board of Unit Owners Association is authorized to purchase such additional insurance and for such additional purposes, including, if required by law or deemed advisable by it, workmen's compensation insurance, to carry out its purposes and/or to protect itself, the Condominium, its Common Elements, Apartments, the Unit-Owners thereof and their mortgagees.

Section 10. Authorized Companies: Any and all insurance coverage(s) obtained under Section 1 of the above by the Unit Owners Association pursuant to this Article must be obtained from an admitted insurance carrier(s) authorized to do business in the State of West Virginia by the West Virginia Department of Insurance, and having an Alfred M. Best Financial Rating of at least --A--, which company(ies) shall be affirmatively presumed to be a good and responsible company(ies) and the Developer, the Executive Board, the Unit Owners Association and Institutional Mortgagees shall not be responsible for the quality or financial responsibility of the insurance company(ies) provided same are so rated and are so licensed and approved to do business and provide such coverage in the State of West Virginia.

ARTICLE XI

Use and Occupancy

A. Residential Units: The Unit Owner of an Apartment shall occupy and use his Apartment as a single family dwelling for

residential purposes for himself and the members of his family and/ or his social guests or designees and for no other purposes; provided, however, nothing herein contained shall prevent any Unit-Owner from leasing or renting his Apartment to their parties; provided, however, such Apartment shall, if so rented or leased, be used for residential purposes only by such lessee or renter and in compliance with this declaration and its Exhibits, The Act Rules and Regulations properly promulgated. Such renter or lessee may be removed from the Property and/or refused further entrance by the Executive Board of the Unit Owners Association or its designee for non-compliance, and the Unit-Owner of that Apartment shall be liable for all damages caused by his lessee or renter and all costs of removal which shall be a lien upon his Apartment the same as the lien for unpaid Common Expenses. No commercial or business activity shall be carried out in any Apartment or other part of the Property except that the Declarant, its successors and assigns, may maintain and use one or more Apartments of the Condominium owned by it for management, sales and/ or rental offices and laundry and maintenance areas. Notwithstanding the foregoing, nothing contained in this Declaration shall be construed to restrict the Declarant or any successor in interest to the Declarant from selling and/ or conveying any unit under any plan of multiple use, interval ownership or time sharing arrangement.

No Unit-Owner shall permit or suffer anything to be done or kept in or about his Apartment or upon the Common Elements which will obstruct or interfere with the rights or other Unit-Owners, their guests or assigns or annoy them by creating any unreasonable noises or otherwise, nor shall any Unit-Owner permit or commit any nuisance or illegal act in or about the Property.

No animals or pets of any kind shall be kept in any Apartment or any Property of the Condominium except with written consent of, and subject to, the Rules and Regulations adopted by the Executive Board of the Unit Owners Association; provided, however, that in no case shall they be kept, bred or maintained for any commercial purposes; and provided, further, any animal or pet causing or creating a nuisance or unreasonable disturbance may be permanently removed from the Property by

the Executive Board upon three (3) days written notice to the owner thereof. Once permission to allow a pet to be kept in any Apartment is given, it shall not be withdrawn or terminated unless such pet has caused or created a nuisance or unreasonable disturbance as provided herein.

No Unit-Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors or windows of the Apartments or upon the general or limited Common Elements; nor shall he plant any type of plants, shrubbery, flower, vine or grass outside an Apartment; nor shall he cause awnings or storm shutters, screens, enclosures and the like to be affixed or attached to any Apartment, limited or general Common Elements; nor shall he place any furniture or equipment outside an Apartment except with the written consent of the Executive Board of the Unit Owners Association; and further, where approved, subject to the Rules and Regulations of the Executive Board. No clothes-line or similar device shall be allowed on any portion of the Property nor shall clothes be hung anywhere except where designated by the Executive Board. Unit-Owners may not screen or enclose any exterior patio which abuts an Apartment where applicable nor may any Unit-Owner screen or enclose any exterior deck and/or balcony which abuts his Apartment, where applicable, with any type of material without the prior written consent of the Executive Board.

Notwithstanding the provisions hereof, the Declarant, its successors and assigns, shall be allowed to maintain one (1) or more apartments as laundry and/or maintenance areas, management, sales and/or rental office(s); to display and place signs upon the premises to aid in sales or rentals; and to engage in sale or rental activities and provide laundry and maintenance service upon the Property.

B. Commercial Space: The Declarant, as owner of the ground level commercial space is hereby authorized and permitted to partition the same into individual commercial units. The commercial units shall be subject to the By-Laws of the Unit Owners Association in regard to those common elements on the ground floor level and shall not share in the common elements or the expenses of the Residential Unit Apartments on the upper three levels. It is anticipated that the commercial spaces shall

be used to conduct business with the general public and therefore the Lessess of said commercial space shall not be restricted or limited in its number of customers or invitees.

C. No person shall use the Common Elements or any part(s) thereof contrary to, or not in accordance with, such Rules and Regulations pertaining thereto as may from time to time be promulgated by the Executive Board of the Unit Owners Association.

The Executive Board, if it determines appropriate, may suspend use of the Common Elements as to a Residential user for a period of up to thirty (30) days for any violation of the provisions hereof and/ or said Rules and Regulations. Such remedy is not exclusive.

ARTICLE XII

Maintenance and Alterations

A. The Executive Board may enter into contracts with firm(s), person(s) or corporation(s), or may join with other horizontal property regimes and/ or entities in contracting for the maintenance and/ or repair of the Property and any properties belonging to the Condominium or to which it and its Unit-Owners, (Residential and Commercial) have access and/or the use of; may contract for or may join with other Unit Owners Associations in contracting for the maintenance and management of the Condominium; and may delegate to such contractor or manager all power and duties of the Unit Owners Association and its Executive Board except such as are specifically required by this Declaration, by its By-Laws or by the Act to have approval of the Executive Board and/or of the Unit Owners Association.

B. There shall be no alterations or additions to the Common Elements or any part(s) thereof except as authorized by the Executive Board and approved by not less than seventy-five (75%) percent of the total vote of the Unit-Owners (Residential and Commercial) of the Condominium provided the aforesaid alterations or additions do not affect the right of any Unit-Owners and/or his Institutional Mortgagee(s) of record unless the consent of both have been obtained. The cost of the foregoing shall be assessed as Common Expenses. Where alterations or additions as aforesaid are exclusively or substantially for the benefit of

the particular Unit-Owner(s) requesting the same, then the cost of such alterations or additions shall be assessed against and collected solely from the Unit-Owner(s) exclusively or substantially benefiting therefrom. The assessment shall be levied in such proportion as may be determined as fair and equitable by the Executive Board taking into account the benefit to each and the relative value of each such Apartment as opposed to the others so improved. Where such alterations or additions exclusively or substantially benefit Unit-Owner(s) requesting the same, said alterations or additions shall only be made when authorized by the Executive Board and approved by not less than seventy-five (75%) percent of the total votes of the Unit-Owners exclusively or substantially benefiting therefrom, and where said Unit-Owners are ten (10) or less, the approval of all but one (1) shall be required.

Where the approval of Unit-Owners for alterations for additions to the common elements of this Condominium is required, the approval of Institutional Mortgagees whose mortgages encumber Units representing not less than ninety (90%) percent of the total unpaid dollar indebtedness as to principal on said Units at said time shall also be required.

C. Each Unit-Owner is hereby required:

1. To maintain in good condition and repair his Apartment, all interior surfaces and the entire interior of his Apartment and to maintain and repair the fixtures and equipment therein, which includes, but is not limited to, the following, where applicable: air conditioning and heating units, including condensers and all appurtenances thereto wherever situated; not water heaters; refrigerators, ranges and ovens and all other appliances; drains, plumbing fixtures and connections, sinks, all plumbing and water lines within the Apartment; electric panels, lines, outlets and fixtures within the apartment; interior doors, windows, screens and glass; all exterior doors (except the painting of the exterior of an exterior door shall be a Common Expense). Water, sewerage, disposal and waste fees, electricity or other utility charges, if applicable, shall be part of the Common Expenses if billed to the Condominium; however, if the individual bills are sent to each Unit-Owner by the provider of such services, each Unit-Owner shall pay said bill for his Apartment or

commercial space individually. Electricity for the apartments and commercial space and all other purposes for the Condominium may be metered to the Condominium as a whole, rather than to the individual Apartments, and, if so, shall be a Common Expense. Where an Apartment is carpeted, the cost of maintaining and replacing the carpeting shall be borne by the Unit-Owner of said Apartment. Each Unit-Owner shall maintain, care for and preserve those portions of the Limited Common Elements, if any, exclusively for his use or exclusively for his use together with certain other Unit-Owners as provided in Article III, Section 5, hereof. Where there is an light fixture or fixtures attached to the exterior wall or walls of the Apartment, the Unit-Owner thereof shall replace the bulb(s) by the same color wattage at his cost and expense unless the Executive Board decides to replace same as Common Expense. Each Unit-Owner is responsible for and will pay for his telephone service.

2. Not to make or cause to be made any structural addition or alteration to his Apartment or to the Common Elements or any part(s) thereof. Alterations within an Apartment may be made with prior written consent of the Executive Board and any Institutional Mortgagee holding a mortgage upon such Apartment as could be affected by such alteration. Upon approval of such alteration, the Executive Board shall have the right to require approval of any contractor and/ or sub-contractor employed by such Unit-Owner for such purpose. Said parties shall comply with all Rules and Regulations adopted by the Executive Board. Further, such Unit-Owner shall be liable for all damages to any other Apartment(s), Common Element(s) or Property caused by the Unit-Owner's contractor, sub-contractor or employee whether such damage be caused by negligence, accident or otherwise.

3. To allow the Executive Board or its representative, agent or employee to enter into his commercial space or apartment for the purposes of maintenance, inspection, repair or replacement of improvements within the Apartment and for Common Elements; to determine in the case of emergency, circumstances threatening the Commercial area, Apartment and/ or Common Elements; or to determine compliance with the provisions of this Declaration and/ or any By-Law or Rule or Regulation of the Unit Owners Association.

4. To display no signs, advertisements or notices of any

type on the Common Elements, Apartments, or Building and to erect no exterior antenna or aerals except as consented to by the Executive Board. Provided however, the Declarant shall be authorized to display advertisement signs in the commercial space on the ground floor level.

D. In the event that a Unit-Owner or the Declarant fails to maintain his Apartment and all parts thereof as required, makes any alterations or additions without the required consent, or otherwise violates the provisions hereof, the Executive Board, on behalf of the Council of Unit Owners, shall have the right to proceed with an action at law for damages or to obtain an injunction to prevent such activity and/or to require compliance with the provisions hereof, with the By-Laws, The Act or any Rules or Regulations. In lieu thereof and in addition thereto, the Executive Board shall have the right to levy an assessment against such Unit-Owner or Declarant for such necessary sums to remove any unauthorized additions or alterations and/or to restoring the Property to good condition and repair. Such assessments shall have the same force and effect as all other special assessments. The Executive Board shall have the right to have its employees or agents, of subcontractors appointed by it, enter an Apartment at all reasonable times to do such work as it deems necessary to enforce compliance with the provisions hereof.

E. The Executive Board shall determine the exterior color scheme of all buildings and all exterior and interior color scheme(s) of the Common Elements (subject to the approval rights of the Unit Owners Association, and shall be responsible for the maintenance thereof. No Unit-Owner shall paint an exterior wall, door, window or any exterior surface or place anything thereon or affix anything thereto without the written consent of the Executive Board.

F. The Unit Owners Association shall be responsible for the maintenance, repair and replacement of the Common Elements and all portions of the Property not required to be maintained and/or repaired and /or replaced by individual Unit-Owners. Notwithstanding each Unit-Owner's duty of maintenance, repair, replacement and other responsibilities

to his Apartment or Commercial space, the Unit Owners Association, through its Executive Board, may enter into an agreement with such firm(s) or company(ies) as it may determine from time to time to provide certain services and/or maintenance for and/or on behalf of the Unit Owners whereby maintenance and services are provided on a regularly scheduled basis, such as air conditioning maintenance services, exterminating services and other types of maintenance and services as the Executive Board deems advisable and for such periods of time and on such basis as it determines. Further, the Executive Board may lease equipment (such as MATV or Cable TV service) and grant easements for the location and/or installation of the same if it determines advisable. Said agreements shall be on behalf of each of the Unit-Owners and the monthly Assessments due from each Unit-Owner for Common Expenses shall be increased by such sum as the Executive Board deems fair and equitable under the circumstances in relation to the monthly charge for said equipment maintenance or services. Each Unit-Owner shall be deemed a party to such agreement with the same force and effect as though said Unit-Owner has executed said agreement. It is understood and agreed that the Unit Owners Association through its Executive Board shall execute said agreements as the agent for each Unit-Owner. The aforesaid assessment shall be deemed to be an assessment under the provisions of this Declaration.

ARTICLE XIII

Termination

This Condominium may be voluntarily terminated at any time upon the terms and conditions and in the same manner set forth and described in The Act; provided, however, that unless otherwise required by law or in The Act, before the Condominium may be terminated, all Institutional Mortgagees of record of any Apartment or any other part of the Property of the Condominium must agree in writing to accept such termination and to accept as security the undivided portion of the Property owned by the debtor(s) of each. In the event of such termination, all Residential Unit-Owners and the Declarant as to the commercial space shall become tenants in common of the real property and improvements constituting the Apartment and Common Elements. The ownership of each Unit-

Owner and the Declarant upon such termination as tenant in common shall be the same percentage as his percentage ownership in the Common Elements at that time.

ARTICLE XIV

Easements

Each person who acquires an interest in an Apartment or Commercial space shall be deemed, thereby, to agree that: (i) if any portion of an Apartment or Commercial space shall encroach upon any portion of the Common Elements or another Apartment or any portion of the Common Elements shall encroach upon any Apartment or Commercial space, there shall exist a valid easement for such encroachments and for the maintenance and repair of the same so long as it stands; and (ii) in the event a Building or other improvement or an Apartment or the Commercial space is partially or totally destroyed and the reconstruction thereof shall create an encroachment on portions of the Common Elements or on any Apartment or Commercial space, there shall exist a valid easement for such encroachment and the maintenance thereof.

The Property submitted to a Horizontal Property Regime hereby is a subject to all conditions, limitations, restrictions, reservations and all other matters of record, the rights of the United States of America, the State of West Virginia, and any authority or agency, including assessments and restriction established by Snowshoe, Inc. (owner of roads and public utilities on Snowshoe mountain), any taxes, applicable zoning ordinances which do not exist or are hereafter adopted and easements for ingress and egress, for pedestrian and vehicular purposes and for utility services and drains which are not in exist but are hereafter granted by the Declarant for the benefit of such persons as the Declarant designates. The Declarant shall have the right to grant easements and designate the beneficiaries thereof for such time as it determines in its sole discretion. Such rights include, but are not limited to, reservation unto itself, its successors and assigns, and the right to grant to others, easements for access and for ingress across the paved portions and walkway portions of the Property as it may be composed from time to time for owners, occupants and users of other properties, facilities and horizontal property

regimes within the Resort or in proximity thereto. When the Declarant relinquishes such right, the Unit Owners Association shall be empowered to grant such easements but not to revoke any theretofore granted. While the Declarant has the right to grant easements, the consent and approval of the Unit Owners Association to the granting thereof shall not be required. No easement shall be granted by the Declarant or the Unit Owners

Association if as a result thereof any of the building or other improvements in the Condominium would be structurally weakened or the security of any mortgagee of record would be adversely affected without its written consent.

Those easements of ingress and egress across the Property which are of record, are shown in the Exhibits or in the records of the Clerk of Court of Pocahontas County, West Virginia. The rights of all Owners shall be subject to all such easements as presently exist or are hereinafter granted.

The Unit Owners Association, all present and future Unit-Owners and occupants, the Declarant and their respective successors, assigns, and designees are hereby granted an easement over, through and across and a license to use the paved areas of the Common Elements and are further granted a pedestrian easement over, through and across the Common Elements upon such paths and ways as are suitable for pedestrian traffic and a license to use the same.

ARTICLE XV

Top of the World Condominium at Snowshoe

The Condominium is located within and is a part of a certain .59 acre tract of land owned by the Declarant on Snowshoe Mountain, Pocahontas County, West Virginia which Declarant has named Top of the World Condominium at Snowshoe (herein "Resort"). The real property constituting the Resort is shown in the Exhibits hereto. Declarant has, by the recording of this Declaration, given the present and future Unit-Owners thereof and all occupants of the Apartments, and the Lessees of the Commercial space on the ground floor level, and the successors and assigns non-exclusive easements and licenses of use of the pathways, streets and roads (together with roadside and entrance areas) paved areas and ski slope area of the Resort (herein the "Resort Facilities").

The Unit Owners Association, all present and future Unit Owners thereof, and all occupants of the Apartments, and all Commercial Lessees, their respective successors, assigns and devisees are hereby granted a non-exclusive easement over, through and across, and a license for use to the ski slope area. Further, the Unit Owners Association and occupants of the Apartments, their successors, assigns and devisees are hereby granted non-exclusive easements over, through and across a license to use the pathways, roads, together with roadside and entrance areas, streets and paved areas of the Resort.

Declarant may elect, in its sole discretion, to construct and develop additional roads and streets, with attendant roadside areas and entrance ways (the proposed locations and dimensions of which roads and streets are shown as "Proposed Roads" upon the plot plan of the Resort which is included in the Exhibits) upon which the Unit Owners Association, all present and future Unit Owners, all occupants of Apartments, and all Lessees of Commercial space and their respective successors and assigns shall be granted non-exclusive easements over, through and across and a non-exclusive license to use in common with all others whom Declarant shall designate. Said roads and streets and attendant roadside areas shall also become part of the Resort Facilities, and all costs and expenses in connection or associated therewith as determined and set by Declarant shall become part of the Resort Expenses to be paid pro-rata by the Unit Owners Association and the Unit Owners thereof as an item of Common Expense as is herein described.

Declarant may, in its sole discretion, declare certain other areas within the Resort as natural areas and may, within such areas create plantings or such other features as it determines in its sole discretion add to the aesthetic qualities of such areas, which areas shall likewise upon so declaring be held by Declarant, its successors and assigns in trust as areas of natural beauty and scenery for use and enjoyment of the Unit Owners and their occupants, such other owners of dwelling units and occupants with the Resort and such third parties as Declarant, or its successors and assigns, may select in its sole discretion (which shall become, upon so declaring, part of the Resort Facilities and the pro-rata

share of upkeep, maintenance, management and replacement of such areas as set by Declarant shall be part of the Resort Expenses to be paid pro-rata by the Unit Owners Association and the Unit Owners thereof as an item of Common Expenses as is herein described).

The Residential Unit Owners shall pay, pro-rata with the Declarant (owner of the ground floor Commercial space) who shall be given similar easements and licenses of such use, all costs of maintenance, upkeep and repair arising out of or associated with the Resort Facility, other owners of dwelling units and other properties within the Condominium who shall be given similar easements and licenses of such use, all costs of maintenance, upkeep and repair arising out of or associated with the Resort Facilities, as such exists from time to time, such costs to include, but not be limited to, providing management, supervision and control thereof, property taxes, insurance and maintenance and reserve funds, and all other costs connected or associated therewith (herein collectively called "Resort Expenses"). Such Resort Expenses shall be included as an item of Common Expense and paid over by the Unit Owner Association to the Declarant, or its assignee or Snowshoe Company upon such schedule (but no more frequently than once a month) and in advance for use for such purposes, provided the Board of the Unit Owners Association shall be entitled to an annual accounting of the use of all Resort Expenses by Declarant or its devisee. In the event of non-payment of Resort Expenses by the Unit Owners Association to Declarant or its designee, the Declarant and, if appropriate, its designee, shall be subrogated to the rights of the Unit Owners Association as to the individual Unit Owners to collect the Resort Expenses from the Unit Owners, including being subrogated to all lien rights for non-payment of Common Expenses as described in Article IX hereof.

Declarant, or Snowshoe Company shall establish Rules and Regulations for use of the Resort Facilities and the Executive Board shall appoint a Resort Facilities Committee to assist the Declarant or its Designee in formulating and enforcing the same, it being the intent that such Rules and Regulations shall encourage safety, use and enjoyment of the Resort Facilities, provided Declarant makes no warranties whatsoever that said Rules and Regulations will be all inclusive or allow absolute safety of use.

Declarant, its successor(s) or assign(s) may, in its sole dis-

cretion, at any time convey to the Regime and its Unit Owners and/or any other Horizontal Property Regime(s) within the Resort or which Declarant has developed in proximity to the Resort, having like non-exclusive easements and licenses of use, all or any portion of the Resort Facilities, or any interest, provided such shall be for no consideration. Declarant shall have no liability whatsoever for any taxes, assessments, utility or other matters whatsoever arising out of the ownership of the Resort Facilities so conveyed, such conveyance shall be subject to Declarant retaining into itself and the right to grant to such third parties as Declarant may designate easements and licenses for use consistent with the conveyed facility and contract (s) for management thereof and all matters and rights therefore of record. The facility or interest therein conveyed shall become a part of the common elements and the instrument of conveyance shall make reference to this Declaration and be an amendment hereto. Execution only by the Declarant or its successor(s) or assigns(s) (as the case may be) shall be sufficient and no execution, concurrence or consent shall be required of the Unit Owners Association, any Unit Owner, any mortgagee, any Lessee of Commerical space or any third party whatsoever.

ARTICLE XVI

Certain Rights of Declarant

1. Notwithstanding any other provisions herein, so long as the Declarant continues to own any of the Apartments, the following provisions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve the Declarant from any obligations as a Unit Owner to pay assessments as to each Residential Apartment owned by him or his pro-rata share of the obligations as Owner of the Commercial space, after the construction on said apartment of Commercial space has been completed and it is included in the condominium.

a. The Declarant shall have the right at anytime to sell, transfer, lease or re-let any Apartment(s) or the Commercial space which the Declarant continues to own after this Declaration has been recorded, without regard to any restrictions relating to the sale, transfer, lease or form of lease of Apartments contained herein and without the consent or

approval of the Unit Owners Association or any other Unit Owner being required.

b. During the period of time in which structures within a particular phase are under construction by the Declarant and not completed, no dues shall be charged against the Declarant as the Unit Owner of Apartments or as the Owner of Commercial space in that phase until both the completion of said Apartments and Commercial space in that Phase and its inclusion in the Condominium and the dues shall be assessed against the Unit Owners (including the Declarant) of those Apartments and the Commercial space in that Phase which shall have been completed, proportionately, inter se.

c. Without limiting the foregoing, the Declarant shall have the power, but not the obligation, acting alone, at any time (and from time to time) so long as the Declarant owns at least one Residential apartment or the Commercial space included in the Condominium to amend the Declaration to cause the same to conform to the requirement of the Federal National Mortgage Association and or the Federal Loan Mortgage Corporation as set forth, respectively, in "FNMA Conventional Home Mortgage Selling Contract Supplement" and "Seller's Guide Conventional Mortgages", as the same may be amended from time to time.

d. The Declarant shall have the rights (i) to use or grant the use of a portion of the Common Elements for the purpose of aiding in the sale or rental of Residential Apartments or the lease of Commercial space; (ii) to use portions of the Property for parking for prospective purchasers or lessees of Apartments or Commercial space and such other parties as the Declarant determines; (iii) to erect and display signs, billboards and placards and store and keep the same on the Property; (iv) to distribute audio and visual promotional materials upon the Common Elements; and (v) to use any Apartment or the Commercial space which it owns as a sales and/ or rental office, management office or laundry and maintenance facility.

e. In order to provide the Condominium with, among other things, adequate and uniform water service, sewage disposal service, utility services and television reception, the Declarant reserves the ex-

elusive right to contract for the provision of such services. The Declarant, as agent for the Unit Owners Association and the Unit Owners, has entered into or may enter into agreements, binding upon the Unit Owners Association and the Unit Owners, with governmental authorities or private entities for furnishing such services. The charges therefor will be Common Expenses.

f. The Declarant reserves the right to enter into, on behalf of and as agent for the Unit Owners Association and the Unit Owners, agreements with other Persons for the benefit of the Condominium, the Unit Owners Association and the Unit Owners. The provisions of any such Agreement shall bind the Unit Owners Association and the Unit Owners. The Declarant, as agent for and on behalf of the Unit Owners Association and the Unit Owners, has entered into an agreement with Comtech Leasing, Inc. will provide a color television set in each Apartment together with cable television reception service and maintenance and service therefor. This Agreement, a copy of which is attached as an Exhibit and incorporated herein by reference, is binding upon the Unit Owners Association and the Unit Owners. The fees for rental of such television sets and for cable televisions excluding pay T. V. shall be \$15.00 per Residential apartment per month, plus Consumer Price Index escalator, not to exceed 15% shall be considered a limited common expense applicable to the Residential apartments in the Condominium. If the Unit Owners Association fails to pay the amounts due under the agreement with Comtech Leasing, Inc., the latter, if it duly performs its obligations under such agreement, shall be subrogated to all rights of the Unit Owners Association as Common Expenses. The agreement with Comtech Leasing, Inc. may be amended only by a written amendment executed by the Unit Owners Association and Comtech Leasing, Inc.

2. THE DECLARANT SPECIFICALLY DISCLAIMS ANY INTENT TO HAVE MADE ANY WARRANTY (IES) OR REPRESENTATION(S) IN CONNECTION WITH THE PROPERTY AS PRESENTLY CONSTITUTED UPON SUCH INCLUSION IN THE RESORT FACILITY (INCLUDING ANY WARRANTIES AS TO MERCHANTABILITY OR FITNESS FOR USE OR FITNESS FOR A PARTICULAR PURPOSE) ANY RULES AND REGULATIONS PROMULGATED

BY DECLARANT OR ITS DESIGNEE OR THE DOCUMENTS ESTABLISHING OR GOVERNING THE CONDOMINIUM, EXCEPT THOSE WARRANTIES AND REPRESENTATIONS (IF ANY) EXPLICITLY SET FORTH HEREIN. NO PERSON SHALL BE ENTITLED TO RELY UPON ANY WARRANTY OR REPRESENTATION NOT EXPLICITLY SET FORTH HEREIN. STATEMENTS (IF ANY) AS TO COMMON EXPENSES, TAXES, ASSESSMENTS OR OTHER CHARGES MADE BY THE DECLARANT OR ANY REPRESENTATIVE THEREOF ARE ESTIMATES ONLY AND NO WARRANTY, GUARANTEE OR REPRESENTATION IS MADE THAT THE ACTUAL AMOUNT OF SUCH COMMON EXPENSES, ASSESSMENTS OR OTHER CHARGES WILL CONFORM WITH SUCH ESTIMATES. The Building and the other improvements located in the Condominium and Resort Facilities consisting of improvements have been or will be constructed substantially in accordance with the representations made in the Exhibits. Such representations specify the full extent of the Declarant's liability and responsibility for the materials and methods utilized in the construction of the Building and the other improvements located in the Condominium.

Each Unit and the common elements are warranted by the builder of the Condominium and the Declarant for two (2) years from the date of settlement. This warranty also extends to faulty installation and/or defects in materials for fixtures and appliances installed for a period of one (1) year from closing date. Manufacturers' warranties shall be assigned to unit owners by Declarant and Declarant's warranty will not be applicable to damages resulting from misuse, accident or lack of reasonable care.

ARTICLE XVII

Provisions Respecting Construction Lender

Notwithstanding anything to the contrary contained in this Declaration, until the satisfaction of record of any construction mortgage given by Declarant upon the Property as presently constituted to secure a loan with which to develop the improvements for the Property or that phase, such as would be commonly classified as a construction loan mortgage hereinafter referred to as the "Construction Mortgage") the following provisions shall be a part of this Declaration and shall supersede any inconsistent provisions contained heretofore in this Declaration.

1) Whenever the consent of the Declarant is required under the Declaration, the written consent of the holder of the construction Mortgage (hereinafter referred to as "Construction Mortgagee") shall also be required.

2) In the event that the Declarant shall violate any of its obligations as a Unit Owner, the Unit Owners Association shall be required to give construction Mortgagee written notice of such failure or violation, and the Unit Owners Association shall be prohibited from instituting any suit or exercising any other remedy against the Declarant for any such failure or violation until it has given Construction Mortgagee ten (10) days' prior written notice of its intention to file such suit or exercise such remedy during which time Construction Mortgagee shall have the right to cure any such failure or violation.

3) Construction Mortgagee shall be given written notice by the Unit Owners Association of any meeting of the Unit Owners together with the agenda of such meeting.

4) No amendment shall be made to this Declaration or to the By-Laws of the Unit Owners Association which would alter the rights of Construction Mortgagee or in any other way affect the security of Construction Mortgagee without its joinder and written consent to such amendment.

5) If Construction Mortgagee either assumes possession of any portion of the Property or Common Elements upon which said Construction Mortgage is a lien or acquires title to unsold Property upon foreclosure of the Construction Mortgage, by purchase of the unsold Property at foreclosure sale, or by deed in lieu of foreclosure, Construction Mortgagee and its successors and assigns shall have and enjoy all of the rights, privileges, and exemptions granted to Declarant by this Declaration and/ or by the By-Laws.

ARTICLE XVIII

Rights of Lenders

Notwithstanding any other provision hereof any mortgagee of record, (including, but not limited to, the Construction Mortgagee while such construction mortgage shall remain unsatisfied), shall:

(i) Upon request, be permitted to inspect the books and records of the Unit Owners Association, during normal business hours;

(ii) Receive a copy of any audit performed for the Unit Owners Association and upon written request, receive a copy of the financial statement for the proceeding fiscal year;

(iii) Upon request, receive written notice of all meetings of the Unit Owners Association, and be permitted to designate a representative to attend and observe all such meetings; and

(iv) Upon written request of the Unit Owners Association identifying the name and address of the holder, insurer and guarantor, and the unit number or address, any eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which effects a material portion of the project or any unit on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor as applicable;

(b) Any delinquency in the payment of assessments or charges owed by an owner of a unit estate subject to a first mortgage held, insured or guarantee by such eligible holder or eligible insurer or guarantor which remains uncured for a period of sixty (60) days;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Unit Owners Association;

(d) Any proposed action which would require the consent of a specified percentage of the mortgage holder.

ARTICLE XIX

Miscellaneous Provisions

A. The Owners of the respective Apartments and commercial space shall not be deemed to own the undecorated and/ or unfinished surfaces of the perimeter walls, floors and ceilings surrounding their respective Apartments or commercial space nor shall any Owner be deemed to own pipes, wires, conduits or other public utility lines running through said respective Apartments or commercial space which are utilized for or serve more than one Apartment or commercial space, which items are

hereby made a part of the Common Elements. Each Unit Owner shall however, be deemed to own the walls and partitions which are contained in said Unit Owner's Apartment and shall also be deemed to own the interior decorated and finished surfaces of the perimeter walls, floors and ceilings including plaster, paint, wallpaper, etc.; however, all load-bearing walls and, where applicable, the floor between the first or ground floor and second floor located within an Apartment are part of the common elements to the unfinished surface of said walls and/or floors.

B. Neither the Declarant as to commercial space nor any Unit Owner may exempt himself from liability for his contribution toward the common expenses or other assessments duly made by the Unit Owners Association and/ or the Executive Board by waiver of the use or enjoyment of any of the common elements or the recreational facilities of the Regime or the Resort Facilities or by abandonment of his Apartment or commercial space.

C. Each Unit Owner shall pay all ad valorem taxes and other taxes assessed against his Unit and the Declarant as to commercial space and shall file any tax returns required in connection therewith. No Owner shall have a right of contribution or a right of adjustment against any Unit Owner because the value of his Unit as fixed by any taxing authority may differ from that stated herein.

D. For the purposes of ad valorem taxation, the interest to the Declarant and each Unit Owner of commercial space or Apartment and Common Elements appurtenant thereto shall be considered a Unit. The value of said Unit as compared to the value of the Condominium shall be equal to the percentage of the value of the entire Condominium as then constituted, including land and improvements, as has been assigned to said Unit and as set forth in this Declaration. The total of all said percentages equal 100 per cent of the value of all the land and improvements as it shall then be constituted.

E. All provisions of this Declaration and all Exhibits hereto and amendments hereof shall be construed as covenants running with the land and of every part thereof and interest, therein including, but not limited to, the ground level commercial space, every Apartment and the appur-

tenances thereto and every Unit Owner, the Declarant and/or occupant of the Property or any part thereof or owning any interest therein, his heirs, executors, successors, administrators and assignees shall be bound by all the provisions of this Declaration and Exhibits hereto and any amendments to the same, and The Act.

F. If any of the provisions of this Declaration of the Exhibits hereto, of The Act or any section, clause, phrase, word or the application thereof in any circumstances is held invalid, the validity of the remainder of same and of the application of any provision, action, sentence, clause, phrase or work in other circumstances shall not be affected thereby.

G. Whenever notices are required to be sent hereunder, the same may be delivered to each Unit Owner either personally or by mail addressed to such Unit Owner at his place of residence in the Condominium unless the Unit Owner has by written notice, duly receipted for, specified a different address. Proof of such mailing or personal delivery by the Unit Owners Association shall be given by affidavit of the person mailing or personally delivering such notice. Notices to the Unit Owners Association including the Executive Board shall be delivered by mail to the Secretary of the Unit Owners Association at the Secretary's address within the Condominium or, in the case of the Secretary's absence, then to the President of the Unit Owners Association at his address in the Condominium; provided, however, that the Unit Owners Association may specify a different address by written notice delivered to all Unit Owners, Institutional Mortgagees of record, and any third party affected thereby. Notices to the Declarant shall be sent by mail to Post Office Box 88, Snowshoe Mountain, West Virginia. All notices shall be deemed delivered when mailed. Any party may change his or its mailing address by written notice duly receipted for. The change of the mailing address of any party as specified herein shall not require an amendment to this Declaration. Notices required to be given the personal representative of a deceased Unit Owner may be delivered either personally or by mail to such party at his or its address appearing in the records of the probate court wherein the estate of such deceased Unit Owner is being administered.

H. All remedies for non-compliance provided in The Act shall be in full force and effect. In addition thereto, should the Unit Owners Association find it necessary to bring an action about compliance with any provision of law, The Act, this Declaration and/ or the Exhibits attached hereto, upon finding by the court that the violation claimed was willful or deliberate, the Unit Owner so violating shall reimburse the Unit Owners Association for reasonable attorney's fees incurred in prosecuting such action.

I. Subsequent to the filing of this Declaration, the Unit Owners Association when authorized by a vote of the majority of the total Voting Members of the Unit Owners Association and the Institutional Mortgagees of record encumbering condominium units who represent the majority of the dollar institutionally mortgaged indebtedness against this Condominium, may, together with other Unit Owners Associations and/or others, purchase and/or acquire and enter into agreements from time to time, whereby to acquire leaseholds, memberships, and other possessory or use interest in lands and/or facilities, including, but not limited to country clubs, golf courses, and other recreational facilities, whether or not contiguous to lands of the Condominium, intended to provide for the enjoyment and/or recreation and/or other use and/or benefit of the Unit Owners. The expenses of such ownership, rental, membership fees, operations, replacement and other undertakings in connection therewith shall, as are Resort Expenses, be Common Expenses together with all other expenses and costs herein or by law defined as Common Expenses.

J. Whenever the context so requires, the use of any gender shall be deemed to include all genders and the use of the singular shall include the plural and plural shall include the singular. The provisions of this Declaration shall be liberally construed to effectuate its purposes of creating a uniform plan for the operation and development of a horizontal property regime.

K. The captions used in this Declaration and the Exhibits attached hereto are inserted solely as a matter of convenience and shall not be relied upon and/or used to construe the effect or meaning of the text of this Declaration or Exhibits hereto annexed.

L. Where an Institutional Mortgagee by some circumstance fails to be a first mortgagee, it shall nevertheless for the purposes of this Declaration or the Exhibits hereto be deemed to be an Institutional First Mortgagee of record.

M. If any term, covenants, provision, phase or other elements of this Declaration or the Exhibits hereto or the Act are held invalid or unenforceable for any reason whatsoever, such holding shall not be deemed to affect, alter, modify, or impair in any manner whatsoever any other term, provision, covenant or element of this Declaration, Exhibits and the Act.

N. Notwithstanding the fact that the present provisions of the Act are incorporated by reference and included thereby, the provisions of the Declaration and the Exhibits hereto shall be paramount to the Act as to those provisions where permissive variances are permitted; otherwise, the provisions of the Act shall prevail and shall be deemed incorporated here- in.

O. By reason of Declarant being the owner of all Apartments at the time of the recording hereof, Declarant is and shall be the Unit Owner of and Voting Member for each and every Apartment of the Regime (as presently constituted) at the time of recording hereof. By reason thereof and by further reason of the necessity for a governing Executive Board to govern the Regime and enter agreements on behalf of the Unit Owners Association, Declarant, simultaneous with recording hereof, shall appoint an initial Executive Board of five Directors who shall serve as and be and have full powers as the Executive Board of the Unit Owners Association until their successors are elected and qualified. The Declarant shall call or provide the means to call an organizational meeting of the Unit Owners Association within 120 days of the time that Declarant has conveyed more than half of the Apartments in the Regime (as presently constituted) to third parties, at which time an Executive Board shall be elected and qualified who shall, upon such election and qualification, succeed the initial Executive Board appointed by Declarant.

P. The Unit Owners Association by its execution of this Declaration approved the provisions hereof and all covenants, terms, conditions,


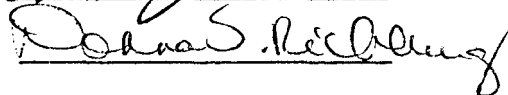
duties and obligations hereof and Exhibits hereto and the Act. Each Unit Owner by virtue of acceptance of a Deed of Conveyance of an Apartment and/ or any portion of or interest in the Common Elements and other parties by virtue of their occupancy of Apartments or use of the Common Elements, hereby approve the foregoing and do agree to be bound by all the terms, conditions, duties and obligations contained herein, in the Exhibits hereto and in the Act.

Q. No Unit Owner shall bring or have any right to bring any action for partition or division of the Property.

IN WITNESS WHEREOF, the Declarant on behalf of itself and to bind itself and its successors in interest, including all Unit Owners who shall comprise the Unit Owners Association (which shall be known as the Top of the World Condominium at Snowshoe Unit Owners Association, Inc.) has executed this Declaration of Top of the World Condominium at Snowshoe as its act and deed and in witness whereof, it by and through its joint venturers, has set its hand and seal this 15th day of October 1982.

SIGNED, SEALED & DELIVERED: SNOWSHOE DEVELOPMENT COMPANY, II,
a Joint Venture

In the Presence of:

HCC DEVELOPMENT, INC.

FR CORPORATION

By: 
Its President


STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON, TO-WIT:

I, W. C. Coffey, Jr., a Notary Public of said County, do certify that Donald M. Coker, who signed the foregoing Declaration, bearing date the 15th day of October, 1982 for HCC Development, Inc., has this day in my said County, before me, acknowledged the said writing to be the act and deed of said corporation.

Given under my hand and seal this 15th day of October 1982.

My Commission Expires: 11/19/89


Notary Public


STATE OF SOUTH CAROLINA,

COUNTY OF CLARENDON TO-WIT:

I, W. C. Coffey, Jr., a Notary Public of said County, do certify that L. F. Rossignol, III, who signed the foregoing Declaration, bearing date the 15th day of October, 1982, for FR Corporation, has this day in my said County, before me, acknowledged the said writing to be the act and deed of said corporation.

Given under my hand and seal this 15th day of October, 1982.

My Commission Expires: 11/19/89.


Notary Public

State of West Virginia

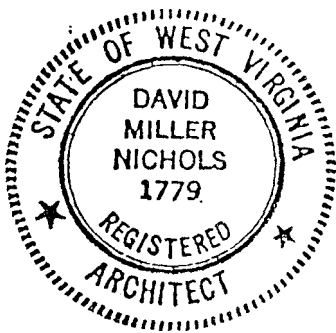
Architect's Certificate

County of Pocahontas.

I certify to the best of my knowledge, information and belief, that the pages
numbered 1 through 45 , this Exhibit 1 and the plot plan referred to in the
Description of the property, adequately depict the land , but buildings
And improvements and elevations of the Top pf the World Resort Condominium
Horizontal Property in accordance with the requirements of the Uniform
Condominium Act of West Verginia.

David M. Nichols 4.20.82

David M. Nichols, Architect



"EXHIBIT 1"

Description of Property

That certain tract of land located southwest of Widowmaker Ski Lift near the northern termination of Snowshoe Drive Extention being comprised of a .59 acre tract and a .04 acre tract. The .59 acre tract being more particularly described as follows:

Beginning at a 5/8"x 30" iron pin, being the northwest corner of Parcel 4 by deed and Tract IV by plat, also being the north corner of the herein described Tract IV "B";

1. S. 28° 11' 53" W., along the northern line of said Tract IV by Plat and Parcel 4 by deed, 55.94 feet to a 5/8"x 30" iron pin to be set, also being the west corner of herein described Tract IV "B"; and the northwest corner of Tract IV "A";

2. S. 60° 10' 42" W., leaving said line, 5.04 feet to a 5/8"x 30" iron pin to be set;

Thence, Northerly, 1 line:

1. N. 29° 49' 18" W., 216.00 feet, passing the southern most point of herein described Tract III "B", to a 5/8"x 30" iron pin to be set;

Thence, Westerly, 1 line:

1. N. 60° 10' 42" E., 126.00 feet, passing the eastern most point of herein described Tract III "B"; to a 5/8"x 30" iron pin to be set;

Thence, Southerly, 1 line:

1. S. 29° 49' 18" E., 216.00 feet to a 5/8"x 30" iron pin to be set;

Thence, Westerly, 2 lines:

1. S. 60° 10' 42" W., 15.89 feet to a 5/8"x30" iron pin to be set on the northern line of Tract IV as recorded in Plat Book 3, Page 13, and the corner herein described Tracts IV "A" and IV "B";

2. S. 87° 23' 37" W., along Tract IV as recorded and herein described Tract IV "B", 64.79 feet to the point of beginning, containing 0.59 acres, more or less.

The .04 acre tract is described as follows:

A tract of land in Edray District, Pocahontas County, West Virginia, being a part of 18.23 acre Tract IV as recorded along with Tracts I, II, III and V in Plat Book 3, Page 13 in the Office of the Clerk of Court of Pocahontas County, West Virginia. Said tract adjoins the northern boundary of Parcel 4 by deed and Tract IV by Plat, (and is approximately 4100 feet south from the southern termination of State Route 9/3, also known as Snowshoe Drive, along Snowshoe Drive Extended) and is more particularly described as follows:

Beginning at a 5/8"x30" iron pin, being on the southern line of Tract III "A" of the above described tract and being the eastern corner of Tract IV "B" herein described:

Thence, Westerly, 1 line:

1. S. 60° 10' 42" W., 105.06 feet to a 5/8"x30" iron pin on the southern line of above described Tract III "A", also being the west corner of the tract;

Thence, Northerly, 1 line:

1. N. 28° 11' 51" E., along the southerly line of Tract III "A", 55.94 feet to a 5/8"x30" iron pin at the north corner of the tract and being a corner of above described Tracts IV and III "A";

Thence, Easterly, 1 line:

1. N. 87° 23' 36" E., 64.79 feet to the point of beginning, containing 0.04 acres, more or less.

The above tracts are shown upon a survey plat made by Hannah & Associates dated March 15, 1982 made for Snowshoe Company and designated thereon as Tract III A (.59 acres) and Tract IV B (.04 acres) which plat is to be recorded in the Office of the Clerk of the County Commissioner of Pocahontas County, West Virginia in Plat Book 3 at Page 58.

The aforesaid real property and the particular improvements thereon, which are hereby committed (and the location of such improvements) are shown and described on the attached surveys, plot plans and building plans, which are incorporated in the description of reference and which constitute, together with this description, "Exhibit 1" to the Declaration of Top of the World Condominium at Snowshoe. The improvements consisting of the building within which the commercial space and apartments are located and the location of individual apartments and the commercial space within the building are as shown and described upon the aforesaid parts to this Exhibit, which locations and descriptions are also incorporated in this description by reference. The Commercial space and each apartment has appurtenant to it an undivided interest in the common elements as shown and described on the attached surveys, plot plans, building plans and descriptions, and as described in the Declaration to which this is an Exhibit. All areas not contained within the ground floor commercial space and the apartments on the upper three levels as the term "Commercial space" and "apartment" are defined in the aforesaid

Declaration constitute common elements. Improvements which constitute common elements are the streets and driveways, sidewalks, parking areas, all corridors and halls providing access to the commercial space and individual apartments and all stairs, staircases, elevators, walkways and the like providing access to such halls and corridors, and all other improvements not contained within or part of the ground level commercial space or any residential apartment.

This conveyance is expressly made subject to all easements, reservations and rights-of-way of record, including those contained within the Declaration and Exhibits thereto, as shown in this Exhibit and all others of record.

The Commercial space includes:

(a) The space enclosed by the unfinished surfaces of the perimeter and interior walls, ceilings, and floors including vents, doors, windows and other such structural elements that are ordinarily regarded as enclosures of space on the ground floor level.

(b) All interior dividing walls and partitions (including the space occupied by such walls and partitions) on the ground floor level.

(c) The decorated interior surfaces of all interior wall (including the decorated surface of all interior load bearing walls) and all floors, and ceiling consisting as the case may be of wall paper, paint, plaster, carpeting, tiles and other furnishings, material and fixtures affixed or installed and for the sole use of the commercial space, commencing at the point of discontinuance of the structural body of the building and from utility lines, pipes or systems serving the commercial space. No pipes, wires or conduits or other public utility lines or installations constituting a part of the overall system designed for the service of the commercial space in the condominium building or any property of any kind which are not removable without jeopardizing the safety or usefulness of the remainder of the building shall be deemed to be a part of any commercial space.

Each apartment includes:

(a) The space enclosed by the unfinished surfaces of perimeter and interior walls, ceilings and floors thereof, including vents,

doors, windows and such other structural elements that are ordinarily regarded as enclosures of space.

(b) All interior dividing walls and partitions (including the space occupied by such walls and partitions).

(c) The decorated interior surfaces of all interior walls (including the decorated surfaces of all interior load-bearing walls) and floors and ceilings, consisting as the case may be of wallpaper, paint, plaster, carpeting, tiles and all other furnishings, materials and fixtures affixed or installed and for the sole and exclusive use of any dwelling space, commencing at the point of disconnection of the structural body of the building and from utility lines, pipes or systems serving the dwelling space. No pipes, wires, conduits or other public utility lines or installation constituting a part of the overall system designed for the service of any particular dwelling space of a building or any property of any kind, including fixtures and appliances within an apartment, which are not removable without jeopardizing the safety or usefulness of the remainder of the building shall be deemed to be part of any apartment.

Each condominium unit "Apartment" numbers A102, A103, A104, A105, A107, A108, A109, A110, A111, A112, A113, A114, A115, A117, A118, A119, A121, A122, A123, A124, A125, A126, A127, A128, A202, A203, A204, A205, A207, A208, A209, A210, A211, A213, A214, A216, A217, A218, A219, A221, A222, A223, A224, A225, A226, A227, A228, A302, A303, A304, A305, A307, A308, A309, A310, A311, A312, A313, A314, A316, A317, A318, A319, A321, A322, A323, A324, A325, A326, A327, A328 contain 475 square feet including one bedroom. Entrance to each of the above listed units is gained from a corridor which is a part of a common element into a hallway. Each Apartment entrance is into an inter-corridor. Located along one side of the corridor after entrance into the Apartment, is the door to the bedroom facility, next along the corridor is located a storage closet containing the hot water heater, next is located a full bath facility, next is located the kitchen facility and at the end of the hall corridor within the apartment entrance is made into the living room area.

Apartments numbered A101, A106, A115, A201, A206, A215, A220, A301, A306, A315, A320 contain 497 square feet including one bedroom and are located in the corners of each respective level. Entrance to these Apartments is made from the main hallway of each level which constitutes a common element into the living room facility. A ski closet is located between the bathroom and bedroom facility. Adjacent to the living room facility is an interior hall corridor. Proceeding down the corridor, the kitchen is located adjacent to the living room facility, next is located a full bath facility, next is located a closet facility with water heater adjacent and at the end of the corridor is located the bedroom facility and main closet space.

Entrance is made to each of the Apartments from a common element corridor, access being gained to each level by elevator facilities located in the center of the building as well stairways and elevators which are a part of the common element.

There is one building in the condominium which building contains 4 levels. The ground floor level shall constitute the commercial space owned by the Declarant. Apartment units number A101 through A128 are located on the second floor level, units number A202 through A228 are located on the third floor level and units number A301 through A328 are located on the fourth floor level. Each apartment is more particularly described in the Exhibit attached hereto and made a part hereof.

"EXHIBIT 2"

Property Rights and Percentage of Interest

The Condominium Regime contains four (4) levels. The ground floor level consists of commercial space which is to be retained by the Declarant and shall be leased. The upper three levels contain eighty-four (84) residential condominium units.

A. Residential Unit Owners - Each Residential Unit Owner owns, in addition to his Apartment, an interest in the common elements of the Property. Such percentage of interest in the common elements of each unit owner of an apartment represents the percentage of total vote of all units owners in the regime.

The building contains a total of 84 condominium units. The units are identified as numbers A102, A103, A104, A105, A107, A108, A109, A110, A111, A112, A113, A114, A117, A118, A119, A121, A121, A122, A123, A124, A125, A126, A127, A128, A202, A203, A204, A205, A207, A208, A209, A210, A211, A213, A214, A216, A217, A218, A219, A221, A222, A223, A224, A225, A226, A227, A228, A302, A303, A304, A305, A307, A308, A309, A310, A311, A312, A313, A314, A316, A317, A318, A319, A321, A322, A323, A324, A325, A326, A327, A328 each contain 475 square feet. Units number A101, A106, A115, A201, A206, A215, A220, A301, A306, A315, A320 each contain 497 square feet. The three floors of residential units own a total of 3/4ths interest in the entire condominium and each Residential unit shall own 1/112th interest in the Top of the World Condominium which is reflected as .8929% of the ownership.

B. Commercial Space The ground level commercial space retained by the Declarant contains 14,865 square feet which constitute a 1/4th interest in Top of the World Condominium which is reflected as 25% of the total ownership.

"EXHIBIT 3¹¹

BY-LAWS

OF

TOP OF THE WORLD CONDOMINIUM AT SNOWSHOE

UNIT OWNERS ASSOCIATION, INC.

(A Corporation Not for Profit Under the Laws of the State of West Virginia)

ARTICLE I

Name

The name of the Association shall be the Top of the World Condominium at Snowshoe Unit Owners Association, Inc. (hereinafter referred to "the Association")

ARTICLE II

Offices

The principal office of the Association shall be located at Snowshoe Summit Development Company, II, Snowshoe, West Virginia. The Association may have other offices within and without the State of West Virginia as the Executive Board may determine or as the affairs of the Association may require from time to time. The Association shall have and continuously maintain in the State of West Virginia a registered agent whose office shall be identical with the registered office. The registered office may be but need not be identical with the principal office of the Association and the address of the registered office may be changed from time to time by the Executive Board.

ARTICLE III

Purpose

The purpose of this Association shall be to provide a collective government for administration for the Residential and Commercial Unit Owners of the Top of the World Condominium at Snowshoe, Horizontal Property Regime and the activities of the Declarant, owner of the ground floor commercial space, its Lessee, the Residential Unit Owners therein and of all persons using or occupying the facilities of the Top of the World Condominium at Snowshoe (herein sometimes called the "Regime" or the "Condominium") and all things pertinent to and/or related thereto and to carry out all activities, promulgate all Rules and Regulations and to have all responsibilities and purposes that are given to the Top of the World

Condominium at Snowshoe Horizontal Property Regime, Unit Owners Association, Inc. in the Declaration of Top of the World Condominium at Snowshoe (hereinafter called the Declaration), in the West Virginia Uniform Condominium Act., Section 36B-1-101 thru Section 36B-4-115 of the Code of Laws of West Virginia, (hereinafter called the Act) and in these By-Laws, and to be the Unit Owners Association for this Condominium as defined and called for in the Act and the Declaration.

ARTICLE IV

Definitions

All terms and phrases used herein shall, unless the context otherwise required, have the same definition and meaning as set forth in the Declaration and/or in the Act, as the case may be.

ARTICLE V

Members

Each and every Residential Unit Owner of an Apartment or an interest in an Apartment and the Declarant, owner of the ground floor commercial space, in the Regime shall be a Member of this Association. Further, there shall be appurtenant to each Apartment and the Commercial space in the Regime the number of votes assigned in the Declaration which shall be voted collectively by the Voting Member of that Apartment and the Declarant as owner of the ground floor commercial space as set forth in the Declaration. Upon the sale, conveyance, devise or other transfer of any kind or nature of any Apartment or commercial space, such subsequent transferee shall automatically become a Member hereof and likewise the vote appurtenant to that Apartment or the commercial space shall automatically pass and the membership of the transferor immediately terminated whether any membership certificate or voting certificate be transferred or not; provided, however, the Association shall for all purposes be entitled to rely upon the right to membership and voting rights of the person shown as Unit Owner of an Apartment and the owner of the commercial space in its records until notified of such transfer by delivery of written notice thereof to the secretary of the Association.

ARTICLE VI

Application

All present and future Unit Owners (Residential and Commercial), tenants, future tenants, agents, servants, employees, guests, invitees and any other person using the facilities of the Regime or occupying any Apartment thereof shall be and is hereby subject to all matters, Rules and Regulations set forth in these By-Laws, Rules and Regulations promulgated by the Executive Board hereof, and all things set forth in the Declaration and in the Act.

A mere acquisition or rental of an Apartment or Lessee of Commercial space or use of the facilities of the Condominium shall signify these By-Laws and all Rules and Regulations by the Executive Board are accepted, ratified and shall be complied with.

ARTICLE VII

Voting Majority

Section 1. There is hereby assigned to each Residential Apartment and to the Declarant owner of the ground floor commercial space, the number of votes as described and assigned in the Declaration which shall be voted by the Voting Member thereof as described in the Declaration. The vote so assigned to each may not be split in any fashion. If one person is the Unit Owner of an Apartment, he shall be the Voting Member. The Declarant or his designee shall be the voting member as to the area contained in the ground floor commercial space. If an Apartment be owned by more than one person, they shall designate one of them as the Voting Member and notify the Secretary in writing of such designation. In the event a corporation owns an Apartment, the corporation shall designate one agent thereof as the Voting Member and so notify the Secretary in writing. In the case of multiple or corporate ownership of an Apartment, the vote appurtenant thereto shall not be exercised until written designation of the Voting Member has been delivered to the Secretary. The Voting Member so designated shall remain the Voting Member, entitled to cast the vote of that Apartment on all matters to come before the Unit Owners Association for vote until the Secretary be given written notice of change. The vote assigned to each Apartment represents the percentage of ownership assigned to it in Exhibit "2" of the Declaration.

Section 2. As used in these By-Laws, the term Majority of Unit Owners shall mean those Residential and Commercial Unit Owners who are Voting Members holding fifty-one (51%) percent of the total vote value of all Unit Owners in the Condominium as then constituted. Unless otherwise required herein, in the Declaration or in the Act, a majority vote shall constitute fifty-one (51%) percent of the total outstanding vote value of all Unit Owners and shall be required to adopt any decisions affecting the Condominium.

Section 3. Except as otherwise provided or required in these By-Laws, the Declaration or the Act, the presence in person or by proxy of a Majority of Unit Owners, as is defined above, shall be required to constitute a quorum.

Section 4. Votes may be cast in person or by proxy. Each proxy shall be in a form as determined by the Executive Board and must be filed with the Secretary at least fifteen (15) days before the appointed time for a regular meeting and at least one day before the appointed time for a special meeting.

Section 5. Membership in the Association is not transferable or assignable (except as the same may be assigned by way of proper proxy properly executed). Transfer of a Unit Owner's Apartment or commercial space or his interest therein in any fashion shall automatically terminate his membership herein and all his voting rights.

ARTICLE VIII

Administration

Section 1. The Association shall be managed and governed by a Executive Board (herein called the Board) consisting of five (5) persons (hereinafter called Directors) . Pursuant to the terms of the Declaration, the Declarant has appoint an initial Board consisting of five (5) directors who need not be officers of Declarant or present or future Unit Owners. Such initial Board shall have all powers and duties of the Executive Board of the Unit Owners Association as described herein, in the Declaration and in the Act. Said initial Executive Board shall serve until their successors are elected and qualified at the organizational meeting of the Unit Owners

Association which shall be called and held as provided in the Declaration. All members of the Executive Board (except for the aforesaid members of the Executive Board) must be Voting Members in good standing. The Executive Board to succeed the initial Executive Board appointed by the Declarant shall be nominated and elected, the three (3) nominees to be elected and receiving the most votes shall be elected to the Board for a two-year (2) term; the two (2) nominees receiving the next highest number of votes shall be elected for a one-year (1) term. Directors elected at subsequent elections shall be elected for a term of two (2) years, and shall be elected at the regular Annual Meeting of the Unit Owners Association. At such regular Annual Meetings, the Voting Members shall vote for the number of Directors necessary as there are vacancies on the Board; provided, however, there shall be no cumulative voting. The candidates receiving the most votes shall be declared elected as members of the Board to fill the Board positions vacant at that time. Board members shall serve until their successors are elected and qualified.

Section 2. Any Director (other than on the aforesaid Executive Board) who shall cease to be a Voting Member or who shall be delinquent in payment of any common expenses or assessments (as defined in the Master Deed and/ or in the Act) shall automatically cease to be a Member of the Board.

Section 3. Each Board member (other than on the aforesaid initial Board) must be a Voting Member and in good standing, the Unit Owner of the Apartment or the owner of the commercial space for which the Board member is a Voting Member being current in payment of all fees, assessments and common expenses.

ARTICLE IX

Executive Board

Section 1. Consistent with these By-Laws, the Board shall:

A. Transact all Association business and prescribe the Rules and Regulations for the use of the Regime and all facilities and property thereof and may appoint such officers, clerks, agents, servants or employees as it may deem necessary in its sole discretion and may fix their duties and compensation.

58 B. Annually set the common expenses for the operation of the Condominium, including, but not limited to, payments under all agreements, and the Condominium's pro-rata share of the Condominium Expenses (as defined in the Declaration).

C. Fix, impose and remit penalties for violations of these By-Laws and Rules and Regulations of the Unit Owners Association.

D. Serve without compensation.

E. Elect from the Board within thirty (30) days after each Annual Meeting a President, Vice President, Secretary and Treasurer, all of whom shall serve without remuneration. In the event of a vacancy in any one of these offices during the year, the Board shall have the power to elect a member of the Board in good standing to fill the vacancy for the unexpired term. In the event of a vacancy on the Board, the President shall have the power to appoint with the approval of the majority of the Board, a member in good standing to fill the vacancy until the next Annual Meeting.

F. Carry out all other duties and obligations imposed and exercise all rights granted it by the Declaration and Exhibits thereto and the Act.

G. Establish a Condominium Rules and Regulations committee to work with and assist the Declarant or its designee in establishing and promulgating Rules and Regulations for use of the Condominium Facilities.

Section 2. There shall be at least one regular meeting of the Board quarterly at a time designated by the President. The President or two (2) members of the Board may call special meetings of the Board as are deemed necessary or desirable and in the best interest of the Association.

Section 3. Notice of regular and any special meetings of the Executive Board shall be given at least two (2) days previously thereto by written notice delivered personally or sent by mail to each Director at his address as shown in the records of the Association. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed with postage thereon prepaid. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice for such meeting except for

the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or conveyed. Neither business to be transacted nor other purpose of any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting unless specifically required by law or by these By-Laws.

Section 4. A simple majority of the members of the entire Board shall constitute a quorum for the purposes of transacting Association business and the affirmative vote of a simple majority of the entire Board shall be necessary to pass any resolution or authorize any act of the Association unless a different vote is required herein, the Declaration, its Exhibits and/ or the Act. Absentee voting is permitted provided such Director register his vote in writing with the Secretary within twenty-four hours after the termination of such meeting.

Section 5. Any action required by law to be taken at any meeting of the Directors or any action which may be taken in a meeting of the Directors may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by two-thirds (2/3) of the Directors.

Section 6. The Executive Board shall annually on or before November 15th of each year, prepare a budget for the up-coming calendar year to include such sums as it deems necessary and adequate to provide for the common expenses of the Condominium and such other expenses as are necessary or appropriate expenses of the Condominium. The Executive Board shall allocate the portion of the common expenses to the ground floor commercial space and to the residential apartments. The Executive Board shall thereafter on or before December 1st deliver (which delivery made by mail, the budget for the up-coming year together with statement of the amount(s) due from each Residential Unit Owner and the Declarant owner of the ground floor commercial space for that year and the date or dates upon which payment or payments are due to the Unit Owners. Thereafter, should any increase or decrease be determined appropriate by the Executive Board in assessments to be paid by the Residential and Commercial Unit Owners, the Board shall notify all Unit Owners so affected at least thirty (30) days prior to the time such assessment so changed

shall be due. At no time shall the ratio of charges between Commercial and Residential Units be varied from the percentages stated in the Declaration. The Unit Owners Association shall have a lien upon each Apartment and the Commercial space together with the common elements and common surplus appurtenant thereto for payment of all assessments not paid when due in the amount of such unpaid assessments together with the interest thereon from the date due together with the cost of collection thereof including a reasonable attorney's fee. Such shall be collected and/ or lien foreclosed upon in the manner provided for in the Declaration and Exhibits thereto and/or in the Act.

ARTICLE

X

Officers

Section 1. The principal officers of the Association shall be a President, Vice President, Secretary and Treasurer, all of whom shall be elected by and from the Board. The Directors may appoint assistant treasurers and secretaries and such other officers as in their judgment may be necessary. No two offices may be held by the same person unless there be less directors than officers to be elected in which case one may hold more than one office.

Section 2. The officers of the Association shall be elected annually by the Executive Board immediately following the annual meeting of the Unit Owners Association and shall serve for the twelve (12) month period next succeeding. New offices may be created and filled at any meeting of the Executive Board. Each officer shall hold office until his successor shall be duly elected and shall qualify.

Section 3. The President shall be the principal executive officer of the Association, shall preside at all meetings of the Board and all meetings of the membership, shall appoint committees and shall have general charge of and shall control the affairs of the Association according to such rules and regulations as the Board shall determine.

Section 4. There shall be a Vice President who shall perform such duties as may be assigned to him by the Board. In case of death, disability or absence of the President, he shall be vested with all the powers and perform all duties of the President. The Vice President shall also be chairman of the Operations Committee.

Section 5. There shall be a Treasurer who shall keep the funds of the Condominium and shall disburse them to meet the ordinary and usual expenses of the Condominium and for other purposes as required by the Declaration, the Act and/ or upon order of the Executive Board after such disbursement order has been entered in the minutes of the Board at a duly constituted meeting and shall have such other duties as may be assigned to him. He shall render a financial report to each regular meeting of the Board and to the Annual Meeting of the Unit Owners Association. The Treasurer shall be bonded at the expense of the Association.

Section 6. If required by the Executive Board, the assistant treasurer, if any, shall be bonded at the expense of the Association. The assistant treasurers and the assistant secretaries, in general, shall perform such duties as shall be assigned to them by the Treasurer or the Secretary or by the President. Any officer elected or appointed by the Executive Board may be removed by the Executive Board upon a two-thirds (2/3) majority vote whenever in its judgment the best interests of the Association will be served thereby, but such removal shall be without prejudice of the contract rights, if any, of the officers so removed. Section 7. A vacancy in any office because of death, resignation, removal, disqualification or otherwise may be filled by the Executive Board for the unexpired portion of the term.

ARTICLE XI

Meetings

Section 1. There shall be an Annual Meeting of the Unit Owners Association held within the same quarter of the calendar year as the organizational meeting was held (which must be held within six (6) months of the date Declarant has conveyed to third parties more than half (1/2) of the Apartments in the Regime, provided Declarant shall call or provide the means to call such organization meeting) and at a time and place designated by the President. Notice of the annual meeting shall be given to all Unit Owners by mail at least twenty (20) days prior to the date of the meeting.

Section 2. Special meetings of the Unit Owners Association may be called by the Board. Also, upon request of voting members totaling

fifty (50%) percent of the total votes of the Association in writing made to the Secretary stating the purpose therefor, a special meeting shall be called by the Secretary of the Association to be held within forty (40) days thereafter. Special meetings of the Unit Owners Association may be held at the call of the President upon five (5) days notice by mail to all members. Such notice shall state the purpose for which the special meeting is called and no other business shall be transacted at said meeting.

Section 3. Voting members holding fifty-one (51%) percent of the total votes of the Unit Owners Association must be present personally or by proxy to constitute a quorum at all Annual and Special Meetings of the Unit Owners Association. Should voting members holding fifty-one (51%) percent of the vote not be present or constitute a quorum at an Annual Meeting of the membership, a special Board meeting may be called by the President or the Secretary and by the action of two-thirds (2/3) of the entire membership of the Executive Board a quorum may be declared provided there are Voting Members holding at least twenty-five (25%) percent of the total outstanding votes of the Unit Owners Association present and that the business to be conducted at such meeting does not require that a greater number of Voting Members be present.

Section 4. Any action required by law to be taken at a meeting of the Unit Owners Association or any action which may be taken in a meeting of the Unit Owners Association may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by Voting Members holding not less than two-thirds (2/3) of the entire votes entitled to vote on the subject matter thereof and further provided the same is not otherwise prevented by these By-Laws, the Declaration or the Act.

Section 5. When notice to Unit Owners is required, the mailing of such notice to the last known address of the Unit Owners Association's records shall constitute notice.

ARTICLE XII

Obligations of Unit Owners

Section 1. Each Unit Owner is obligated to pay all annual, monthly and special assessments and charges levied and imposed by the

Unit Owners Association and/or through its Executive Board for such purposes as are enumerated in the Declaration, in the Act and in these By-Laws. Such charges or assessments so levied shall be paid on or before the date (s) affixed by resolution of the Board. Written notice of the change in any assessment and the date the payment shall be paid shall be sent to each Unit Owner at the address given by such Unit Owner to the Secretary of the Association. All common assessments shall be pro-rated dependent upon each Unit Owner's percentage of ownership in the common elements as is determined and set forth in the Declaration and the Exhibits thereto. Such assessments shall include monthly payments to a general operating reserve in a reserve fund for replacements and all other things as required or set forth in the Declaration, the Act and/ or these By-Laws.

Section 2. The amount of assessment levied shall be paid on or before the date due. If not so paid, the amount of such assessment plus any other charges thereon including interest at the maximum limit provided by law per annum from the date of the delinquency and cost of collection, including attorneys' fees, shall constitute and become a lien on the Unit Owner's Apartment and share of the common elements and common surplus appurtenant thereto. Upon recording of the lien with the proper governmental authority for Pocohontas County, West Virginia, such lien rights shall be as provided for and in accordance with the terms and provisions of the Declaration and the Act. The notice of assessment which shall state the amount of such assessment and such other charges and give the number of the Apartment which has been assessed shall be mailed to the Unit Owner thereof. Upon payment of such said assessments and charges or other satisfaction thereof, if a lien has been recorded, the Board shall, within a reasonable time, cause to be recorded a notice stating the satisfaction of and release of said lien. The priority of the lien hereinabove set forth shall be as provided in the Declaration and/or the Act.

Section 3. The lien provided herein may be foreclosed by suit by the Board acting on behalf of the Association in like manner as a mortgage and in such event, the Association may be a bidder at the

foreclosure sale. The Association through its Board or duly authorized agent may also pursue any other remedy against any Unit Owner owing money to it which is available to it by law or in equity for the collection of debt.

Section 4. Unless prohibited by law, the lien rights granted the Unit Owners Association may be assigned in whole or as to any one or more particular items to any third party.

Section 5. Upon request, the Board shall furnish a statement certifying that all assessments then due have been paid or indicating the amount then due.

Section 6. The Association through its Board shall suspend any Unit Owner not paying assessments when due and such Unit Owner and any lessee, guest or invitee or other person planning to occupy that Unit Owner's Apartment by reason of permission of that Unit Owner or use the facilities of the Condominium shall be refused entrance into the Condominium and use of the facilities thereof until all assessments and penalties to which such Unit Owner is subject have been paid.

Section 7. Each and every Unit Owner shall perform promptly all maintenance and repair work required of individual Unit Owners by the Declaration, the Act or these By-Laws or which is within his own Apartment which, if omitted, would affect the Condominium in its entirety or in a part belonging to some other Unit Owner(s). The Association shall be responsible for all maintenance and repair work required of the Association in the Declaration, these By-Laws and/or the Act.

A Unit Owner shall reimburse the Association if there be any expenditures incurred in repairing and/ or replacing any common elements or facilities damaged by such Unit Owner, his family, guests, invitees or lessees.

Section 8. Each Apartment, other than any Apartment owned by Snowshoe Summit Development Company, II or its express designee(s), shall be utilized for residential purposes only, provided, however, such shall not prevent rent or lease of his Apartment by a Unit Owner to a lessee or rentor to use for residential purposes.

Section 9. No Unit Owner shall make any structural modifications or alterations in his apartment or upon any common elements without the approval of the Unit Owners Association through the Executive

Board.

Section 10. No Unit Owner, his family, guests, invitees or lessees shall place or cause to be placed in any common areas or facilities any furniture, package(s) or object(s) of any kind. Such areas shall be used for no purpose other than normal transit through them and/ or use of the facilities provided.

Section 11. Each Unit Owner shall and does hereby grant right of entry to the Board or its duly authorized agent in the case of any situation provided for in the Declaration or the Act whether such Unit Owner is present at the time or not.

Section 12. No occupant of an apartment shall post any advertisements or posters of any kind in or on the Condominium property except as authorized by the Board or as is permitted in the Declaration; provided, however, this provision shall not be applicable to Snowshoe Summit Development Company, II during the period it is managing, renting or selling apartments.

Section 13. Occupants of apartments shall use extreme care about making noises or the use of musical instruments, radio, television and/ or amplifiers that may disturb other occupants and in the event so notified by the Board or its duly authorized agent such occupant shall immediately cease and desist such activity.

It is prohibited to hang garments, rugs, etc., from the windows or from any sides or from any of the buildings or parts thereof.

It is prohibited to dust rugs, etc. from the windows or to clean rugs, etc, by being on the exterior part of any of the buildings.

It is prohibited to throw or place garbage or trash outside the disposal installation(s) provided for such purposes.

Section 14. No Unit Owner, occupant or lessee of an apartment shall install wiring for electrical or telephone installation, television antenna, machines or air. conditioning units, etc., on the exterior of the buildings or that protrude through the walls or roof of any building except as authorized by the Board.

Section 15. Nothing herein contained shall limit in any manner the power of the Association and/ or Board to issue or promulgate such Rules and Regulations as are deemed necessary or desirable for the use, occupancy and enjoyment of the Condominium by the Unit Owners and/or occupants thereof. Further, all obligations imposed by the Declaration, its Exhibits and/or the Act are hereby incorporated by reference as further obligations as fully as if herein set forth.

Section 16. The Executive Board shall have the right to enter into such agreements as it deems desirable to provide common services or to lease equipment for the uses and enjoyment of the Unit Owners or any one or more Unit Owners. Such rights shall include but not be limited to the right to enter into lease and/or use and/or purchase agreements with third parties to provide recreational equipment and facilities and/or to install, sell and/or lease to the Condominium a MATV system and/or cable television system and/or television sets. Furthermore, the Executive Board appointed by Snowshoe Summit Development Company, II, shall have the right to enter into such agreements on behalf of and for the Unit Owners Association, its Board and the Unit Owners which agreement(s) shall be binding upon the Unit Owners Association and each and every Unit Owner.

ARTICLE XIII

Mortgages

Section 1. Any Unit Owner who mortgages his condominium Unit or any interest therein shall notify the Executive Board of the name and address of his mortgagee and the Board shall maintain such information in a book entitled "Mortgagees of Condominium Units".

Section 2. The Board shall, at the request of such mortgagee, report any unpaid assessments due from the Unit Owner of such condominium Unit so mortgaged.

Section 3. Any and all Institutional Mortgagees shall have all rights and powers granted unto them by the Declaration and/ or The Act and nothing herein contained shall supercede such rights and powers. In the event any right or duty or power herein delegated or granted unto the Association or Board by these By-Laws is given to an Institutional

Mortgagee by reason of the Declaration and/or The Act or should that Institutional Mortgagee by reason of the Declaration and/or The Act have any voice in such decisions, then such Institutional Mortgagee is hereby given and granted such rights and powers and vote in such decisions as are thereby granted.

ARTICLE XIV

Rules and Regulations

The Executive Board shall be and is hereby empowered to promulgate and issue such Rules and Regulations from time to time and to amend and alter any Rules and Regulations theretofore promulgated and issued as it may in its sole discretion determine necessary and desirable for the continued maintenance and upkeep, use and enjoyment of any apartments, common areas of facilities contained within the Condominium, subject, however, to such restrictions upon such as contained in the Declaration, its Exhibits and The Act together with any Rules and Regulations issued thereunder. Such Rules and Regulations shall be binding upon and enforceable upon all Unit Owners, their families, guests, invitees and/or lessees, and all occupants of Apartments.

ARTICLE XV

Contracts, Checks, Deposits, Agreements and Funds

Section 1. The Executive Board may authorize any officer or officers or agent or agents of the Association to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association and/or the Unit Owners thereof. Such authority may be general or confined to specific instances.

Section 2. All checks, drafts or orders for the payment of notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Council (pursuant to a management agreement) in such manner as shall from time to time be determined by the resolution of the Board. In the absence of such determination by the Board, such instruments shall be signed by the Treasurer (or duly authorized assistant treasurer) and by the President (or Vice President).

Section 3. All funds of the Unit Owners Association and/ or received by it from or on behalf of the Unit Owners shall be deposited from time to time to the credit of the Association at such banks, insurance companies, trust companies or other depository as the Board or the property manager, if appropriate, pursuant to a management agreement, may select or as the circumstances and purposes of such deposits may require.

Section 4. The Board may accept on behalf of the Association any contribution, gift, bequest or devise for the general purposes or for any of the special purposes of the Association.

ARTICLE XVI

Certificates of Membership

Section 1. The Board shall provide for the issuance of certificates evidencing membership in the Association to each Unit Owner which shall be in such form as may be determined by the Board. Such certificates shall be signed by the President and by the Secretary and shall be sealed with the seal of the Association, if any. All certificates shall be consecutively numbered. The name and address of each Unit Owner and the date of issuance of the Certificates shall be entered on the records of the Association. If any certificates may become lost, mutilated or destroyed, a new certificate may be issued therefore upon such terms and conditions as the Board may determine.

Section 2. Upon purchase of the Condominium Unit, a certificate of membership shall be issued in the name of the Unit Owner thereof and delivered to him by the Secretary. Such certificate shall be non-transferable and shall be immediately surrendered to the Board upon termination of ownership for any reason. Further, should such Unit Owner fail to surrender such certificate upon termination of ownership such termination shall automatically terminate and such membership certificate shall become null and void.

Section 3. Any Unit Owner failing to pay assessments when due may have his membership in the Association and his use of his Apartment and the facilities of the Condominium suspended by the Board. Any Unit Owner thus suspended shall immediately be notified in writing by the Secretary.

ARTICLE XVII

Books and Records

Section 1. The Association and the Board shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of the Association, of the Board and committees having any authority of the Board and/or the Association and shall keep at the registered office a record giving the names and addresses of the Co-Owners who are Voting Members.

Section 2. For purposes of voting at all meetings of the Unit Owners Association, that person designated as Voting Member for a particular apartment shall be conclusively so presumed to be the Voting Member therefor until the Secretary be notified of a change in the Voting Member. The names of the Voting Members entitled to vote at any meeting and may not thereafter be changed without the express permission of the Board. For purposes of this section, deposit of notice in the United States mail prepaid or personal delivery shall constitute delivery.

ARTICLE XVIII

Miscellaneous

Section 1. Each person elected and qualified as a Director or Officer (including the initial Executive Board appointed by Declarant and Officers selected by it) shall be indemnified by the Association against expenses actually and necessarily incurred by and in connection with the defense by such person of any action, suit or proceeding in which he is made a part by reason of his being a Director or Officer except as to matter as to which he is adjudged to be liable for gross negligence or willful misconduct. The right of indemnification shall inure to each Director or Officer when such matter occurred during the time that such person was a Director or Officer even though such action takes place after such Director or Officer has been succeeded in office by someone else. Such payment by the Association shall be included as a part of the common Expenses.

Section 2. Any question as to the interpretation of these By-Laws shall be determined by simple majority of the full Board.

Section 3. The Unit Owners Association and its Board of Directors, through its Board of Directors, may assign any or all of its

rights, duties, powers and obligations hereunder, under the Declaration and the Act unless expressly prohibited by law. consistent therewith, the Executive Board is hereby authorized and empowered, should it in its sole discretion determine appropriate, to on behalf of itself, the Unit Owners Association and the present and future Unit Owners thereof enter management and other agreements with third parties so assigning for the management of the Regime and/or use, benefit and/ or enjoyment of the Unit Owners thereof.

Section 4. Robert's Rules of Order shall apply in any meeting of the Board or of the Association unless in conflict with the By-Laws, Declaration or the Act in which case these By-Laws, the Declaration and/or the Act shall control.

ARTICLE XIX

Compliance

These By-Laws are set forth to comply with the requirements of the Uniform Condominium Act, Section 36B-1-101 thru 36B-4-115, Code of Laws of West Virginia. In case any of these By-Laws conflict with the provisions of The Act, the provisions of The Act shall apply. In the Event of any conflict between these By-Laws and the Declaration, the provisions of the Declaration shall control.

ARTICLE XX

Amendments

These By-Laws may be amended by a vote of two-thirds of the total voting members of the corporation unless some other or greater vote is required herein, in the Declaration and/or in The Act.

ARTICLE XXI

Incorporation

Nothing herein contained shall prevent the Association from, in the future, incorporating, if such be approved by a two-thirds vote of the Voting Members and not objected to by any Institutional Mortgagee of record provided, however, such shall not work to void or avoid any

rights, duties, obligations or liabilities of the Association or of any individual Unit Owner under the Declaration, the Act or herein, or therefore made or entered into, whether than executory or not.

ARTICLE XXII

Dissolution

Termination of the Condominium shall automatically dissolve this Association. It may also be dissolved in the manner provided by law. Upon dissolution those funds held by the Association for the Unit Owners shall be turned over the Association's successor as governing entity of the Condominium, or if the condominium be terminated, after payment of all debts and expenses, divided as provided according to the percentage ownership interests of the Unit Owners in the common Elements and disbursed as provided in The Act and/or the Declaration, provided, however, the residual of any property of any nature owned by the Association not held by it on behalf of the Unit Owners or any of them, shall, if appropriate, be turned over to one or more organizations which, themselves, are exempt from Federal Income Tax as organizations described in Sections 501 (e) (3) and 170 (c) of the Internal Revenue Code and from West Virginia Income Tax, or to the Federal, State or Local Government for exclusively public purposes.

These By-Laws are hereby adopted, accepted and fully ratified as THE BY-LAWS OF TOP OF THE WORLD CONDOMINIUM AT SNOWSHOE UNIT OWNERS ASSOCIATION, INC. this 15th day of October 1982.

Witnesseth:

AB Jordan
Donna B. Jordan

William B. Jordan (SEAL)
Its Duly Authorized Agent

ATTEST:

AB Jordan (SEAL)

"EXHIBIT 4"
LEASE AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 19____, by and between Comtech Leasing, Inc. , a South Carolina Corporation with its principal office at Hilton Head Island, South Carolina hereinafter called Comtech and Top of the World Condominium at Snowshoe on behalf of itself and each and every Unit Owner thereof hereinafter called "Lessee".

Comtech Leasing, Inc. and Lessee do hereby mutually agree as follows:

1. Comtech Leasing, Inc. will furnish and lease unto Lessee, and Lessee does hereby lease from Comtech Leasing, Inc. , for the term and under the terms and conditions herein set forth the number and type of television sets and/or equipment herein specified. Said equipment shall be delivered by Comtech Leasing, Inc. (with the exception of conduit which is to be supplied by Lessee at its expense), in rooms located upon premises owned or leased or otherwise lawfully operated by Lessee located on Snowshoe Mountain, County of Pocahontas, State of West Virginia. Lessor shall not be liable for delay in, or failure to make delivery of equipment or installation, caused by circumstances beyond its reasonable control, including, but not limited to, Acts of God, fire, flood, wars, accidents, labor or different contingency. The number and types of television sets and/ or equipment leased under the terms hereof are as follows and are the model, type and design selected by the Lessee as suitable, in its judgment, for Lessee's purpose.

One (1) 19" Solid State Telerent Color Television
for each Condominium apartment included in the
Condominium Regime;

One (1) Locking swivel for each television set
so provided; and

Cable, antenna systems, distribution equipment and
amplification equipment for signal distribution.

2. SERVICE

Comtech Leasing, Inc. shall keep and maintain, or cause to be kept and maintained at its sole expense, said leased equipment in good operating order, condition and repair during the full term hereof except for damage to or repair to such equipment as might be made necessary by the negligent acts or omissions of the Lessee, his agents and/or employees. Comtech Leasing, Inc. shall promptly replace any defective set or injured part or parts thereof, provided, however, that in the event replacement of any defective set or sets such substituted equipment shall be subject to all the terms hereof.

It is the obligation of the Lessee to notify Comtech Leasing, Inc. of any deficiency in service as rendered by Comtech Leasing, Inc. or its service representative. Comtech Leasing, Inc. shall not be liable to Lessee for any loss, damage or expense of any kind or nature, directly or indirectly caused by the television equipment covered hereby--or because of any failure thereof, or because of any interruption of service or loss of use or for any loss of business or damage whatsoever or howsoever caused, and Comtech Leasing, Inc. shall in no event be liable for any special or consequential damages. Lessee further agrees there shall be no abatement of rental during the time that may be required for repair, adjustment, servicing, or replacement of the equipment covered hereby.

3. NON-ASSIGNMENT LEASE

The equipment leased hereunder shall not be transferred, delivered or sublet to any other person, firm or corporation, and this agreement shall not be assigned by Lessee except upon prior written consent of Comtech Leasing, Inc.

4. LOCATION

Lessee shall not remove said equipment or any part thereof from the premises where installed; nor sell or encumber any of said Leased equipment. Lessee further agrees to make no alteration in or repairs to said equipment except through authorized service representative of Comtech Leasing, Inc.

5. TERM

The term hereof shall be for a period of eighty-four (84) months beginning on the date of the completion of the delivery of the equipment on premises of Lessee, said date to be confirmed in writing by Lessee upon request of Comtech Leasing, Inc. Provided however, this lease may be terminated upon ninety (90) days written notice by a majority vote of the Unit Owners Association.

6. RENT PAYMENTS

As rental for said equipment, Lessee shall pay to Skyline Satellite Communications, Box 39, Snowshoe, West Virginia, 26209, agent for Comtech Leasing, Inc., during the full term hereof, the sum of \$15.00 per set delivered per month as "Base Rental" plus tax. Upon each anniversary from the date of this agreement during the term of this agreement and any renewals hereof, the Base Rental shall be adjusted in accordance with and by the same percentage as the percentage change in the cost of living index shown by the Consumer Price Index (or similar government index) for the proceeding twelve month period or by fifteen (15%) percent, whichever is less; provided, further, that in no event shall the Base Rental during the term of this agreement and any renewals hereof ever be less than \$15.00 per month. Base rental payments plus tax are due on or before the last day of each month, the first of which shall be due on or before the 1st day of the month following the delivery of equipment. In the event that Lessee requests partial delivery of equipment, Lessee agrees to pay billing on an interim basis, with such billing based on rates for equipment in use, and upon completion of delivery, the full term of this lease shall commence.

7. OWNERSHIP

The equipment, together with wiring, reception and distribution facilities, leased under the terms hereof shall at all times be the sole property of Comtech Leasing, Inc., its successors and assigns, and Lessee shall have no property interest therein, conditions herein contained. Said equipment shall remain personal property and, no matter how connected with or attached to the premises of Lessee, will not become a part of the realty or fixture therein, and Lessee, if so requested by Comtech Leasing, Inc., will obtain written consent of any other party holding a mortgage, encumbrance or lien on the premises of Lessee, or of any purchaser of the premises of Lessee in the event of sale of same, that said equipment shall remain personal property. Lessee shall not at any time during the term hereof transfer, assign, mortgage, or otherwise encumber any interest in said personal property.

8. DELIVERY

Should Lessee and/ or his agent order delivery of equipment and installation on specified dates, and Lessee's premises are not ready for installation of same, Lessee assumes full responsibility for storage, insurance, and any redelivery charges on equipment.

9. INSPECTION

Lessee grants unto Comtech Leasing, Inc. the right to inspect said equipment at all reasonable times during the full term hereof.

10. INDEMNITY,

Lessee shall be responsible to all third parties, including paying guests, for any injury received as a result of the installation of said television sets in or about the premises of Lessee and shall carry public liability insurance to save said Comtech harmless in the event of such injury except such personal injury or property damage as may be occasioned solely by negligent acts or omissions of agents or employees of Comtech Leasing, Inc.

11. INSURANCE

Comtech Leasing, Inc. agrees during the term of this lease to replace or repair any of its equipment, including television sets in guest rooms, which is stolen, burglarized, damaged by fire or maliciously damaged while on the premises of Lessee, excepting television sets or equipment in storage awaiting use of service, providing: (a) Lessee reports within 48 hours of occurrence any such loss or damage to Reception Corporation and to local law enforcement authorities-notice of loss to be sent to Comtech Leasing, Inc. by Certified Mail, (b) Lessee furnishes in such report all available information regarding such loss, including name and address of last occupant of room and room number in which loss occurred (if applicable), auto license number and other pertinent information which would assist in recovery of loss, (c) Lessee and its employees, agents and representatives cooperate fully with Comtech Leasing, Inc. and local law enforcement authorities in their subsequent efforts to effect recovery and prosecution if necessary. Lessee agrees to notify Reception Corporation immediately in the event of subsequent recovery of property covered by any and all loss reports.

Lessee agrees at all times to maintain and exercise due care, caution and watchfulness in the protection and accounting for the equipment under lease. Failure to cooperate in providing such care, caution and watchfulness shall make the terms and provisions of Item 11 "INSURANCE" null and void and Lessee shall be responsible for the replacement of and/or repair to equipment for which such insurance is provided. In the event loss or damage proves to have been caused by employees, agents or representatives of Lessee, or if Lessee fails to comply with "a", "b", or "c" above, it shall be the responsibility of the Lessee to pay Comtech Leasing, Inc. for its cost of replacement or repair of Comtech Leasing, Inc. equipment involved in such loss. In the event that service by Comtech Leasing, Inc. is not included in this agreement, Lessee agrees to maintain the theft equipment installed hereunder, otherwise, theft and burglary insurance will be null and void in the event of any losses while the equipment is inoperative.

12. TAXES

Lessee agrees to be responsible for the collection and payment of any local, state and federal fees, sales, use or property taxes or penalties that may be applicable now or any time during the term of this lease to the property covered hereby or the use or rental thereof.

13. RENEWAL

At the expiration of the term hereof, this lease agreement shall be automatically renewed for additional terms of two (2) years, unless either party hereto should give written notice to the other party hereto at least sixty (60) days prior to the expiration of any additional term of two (2) years thereafter, of the desire of such party to terminate this agreement.

14. DEFAULT

In the event that any payment of rental shall become due as herein provided and shall remain unpaid for ten (10) days or in the event of any other breach of the terms or conditions of this lease by Lessee which breach shall not have been cured within ten (10) days after notice thereof by mail, post paid to Lessee's last known address, or should Lessee be adjudged as bankrupt or there be filed against Lessee a petition under the bankruptcy laws, or if any insolvency proceeding is initiated by or against Lessee, or if any equipment covered hereby is attached, seized or taken under any judicial process, all of the entire remaining unpaid rental payments shall, at the option of Comtech Leasing, Inc., become immediately due and payable. If lessee does not (a) pay the entire remaining rental payments under the lease or (b) cure its breach of the provisions of the lease, then and in that event, Comtech Leasing, Inc. shall have the right, without giving further notice to Lessee, to remove the property thereby without liability and Lessee shall forthwith pay any and all damages, including attorneys fees, suffered by Comtech Leasing, Inc. Further, in the event of non-payment, Comtech Leasing, Inc. shall be, and hereby is, subrogated to the lien rights of the Unit Owners

Association as to each Unit Owner failing to pay his share of Common Expenses necessary to make the rental payments herein required to the extent of the amount(s) due and owing to Comtech Leasing, Inc., but unpaid, which shall include the right to file notice of and perfect a lien(s) against such Unit

Owner(s) as granted to the Unit Owners Association by the Act.

Lessee agrees to pay late charges of five cents (\$.05) per dollar in addition to the regular monthly payment or installment, if payments hereunder are not made within ten (10) days after due date, but not exceeding \$100. 00, or the lawful maximum, if any. Comtech Leasing, Inc.'s failure to exercise a right or remedy under this lease or to require strict performance by the Lessee or any provisions of this lease shall not waive or diminish Comtech Leasing, Inc.'s right thereafter to demand strict compliance with any such right or provision or with any other rights or provisions. Waiver by Comtech Leasing, Inc. of any default by the Lessee shall not constitute waiver of any other or subsequent default.

15. SURRENDER

Upon expiration of this lease, lessee shall remove the leased equipment from the premises referred to herein and surrender such equipment in good operating condition to Comtech Leasing, Inc. or its assignee and if the Lessee fails to so remove and surrender the leased equipment, Comtech Leasing, Inc. shall have the right to enter any premises where the leased equipment may be located and take possession and remove all such equipment either with or without permission and without prejudice to any other rights or remedies of Comtech Leasing, Inc.

If Comtech Leasing, Inc. determines, upon termination or expiration of the lease agreement, that, as a result of causes other than its failure to provide service as expressly required herein, the equipment covered hereby is not in good operating condition, reasonable wear and tear excepted, the Lessee shall upon demand by Comtech Leasing, Inc. either (a) restore the equipment in good operating condition at its sole expense or (b) reimburse Comtech Leasing, Inc. for the reasonable expense of so restoring the equipment.

16. PRIOR LIENS

Should the equipment leased herein be covered by a Conditional Sale Contract, Chattel Mortgage or Security Agreement on which Comtech Leasing, Inc. is the purchaser or obligor, it is understood and agreed that this lease is subject and subordinate to the terms and conditions of said Conditional Sale Contract, Chattel Mortgage or Security Agreement.

17. NOTICE

Any notice required to be given by one party hereto to the other party hereto shall be in writing and sent by certified mail addressed postage prepaid to the mail address of the other party hereto as follows:

Comtech Leasing, Inc.
P.O. Box 3988
Hilton Head Island, S.C.

Top of the World Condominium
P.O. Box 88
Snowshoe, West Virginia

18. AMENDMENTS

This agreement constitutes the entire and only agreement between the parties with respect to the leasing the equipment covered hereby and any representation, promise or conditions with respect to said leasing not set forth in this agreement or such amendments as may be accepted in writing by the designated officers of either party, shall not be binding on either party.

19. WEST VIRGINIA LAW

Should any question arise as to the validity, construction, interpretation, or performance of this lease agreement in any court of any State of the United States, or of Canada, it is agreed that the law of the State of West Virginia shall govern without reference to the place of execution or performance of same.

The invalidity of any provision of this agreement shall not affect the validity of any other provision hereof. This agreement and any amendment hereto shall become binding upon the parties hereto when executed by a duly authorized officer or agent of Lessee.

20. ASSIGNS

All rights, remedies and powers reserved or given to Comtech Leasing, Inc. shall inure to the benefit of Comtech's assigns.

21. INTERIM BILLING

Lessee shall be billed per terms herein on the 1st day of the month following delivery of each TV increment, and when units are delivered, the 84 month lease term will commence.

22. ANTENNAS

It is anticipated that all units shall be supplied under the terms of this lease with cable television service by Sykline Satelite Communications. However, Comtech shall have the right of installing television antennas on the roof or within the attic space of any and all building in the condominium regime.

IN WITNESS WHEREOF, the parties hereto have executed this agreement, on and as of the day and year first above written, one duplicate original copy being retained by each of the parties hereto.

TOP OF THE WORLD CONDOMINIUM AT SNOWSHOE

BY: *Wm. H. P. Collins*

ATTEST: *A. B. Jordan*

COMTECH LEASING, INC.

BY: *J. J. Ramirez*
its President

WEST VIRGINIA
POCAHONTAS COUNTY CLERK'S OFFICE

October 20, 1982

This instrument was this day presented to me in my office, and thereupon, together with the certificate thereto annexed, is admitted to record.

Teste: *H. Schreth T. Meadows* Clerk
Bay. Carmella K. Combs Deputy

FILED

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POCAHONTAS CO. CLERK
MARLINGTON, WEST VA.