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LORETTA BANNER
PITKIN CITY RECORDER

APR 20 1 56 PM '82

BOOK 425 PAGE 374

CONDOMINIUM DECLARATION
FOR
MOUNTAIN RIVER MANOR CONDOMINIUMS

KNOW ALL MEN BY THESE PRESENTS, THAT:

WHEREAS, James J. Mollica (hereinafter called "Declarant") is the owner of that real property situated in the County of Pitkin, State of Colorado, more fully described in Exhibit A attached hereto and made a part hereof.

WHEREAS, Declarant desires to establish a condominium project on said property under the Condominium Ownership Act of the State of Colorado; and

WHEREAS, Declarant does hereby establish a plan for the separate fee simple ownership of real property estates consisting of the area or space contained in each of the air space Units in the building improvements and the co-ownership by the individual and separate owners thereof, as tenants in common, of all of the remaining property hereinafter defined and referred to as the General Common Elements."

NOW, THEREFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, uses, restrictions, limitations and obligations shall be deemed to run with the land encompassing the Property and shall be a burden upon and a benefit to Declarant, its grantees, successors or assigns, and any person or entity acquiring or owning an interest in the real property and improvements thereon which is subject to this declaration, their grantees, successors, heirs, executors, devisees or assigns.

1. Definitions: Unless the context shall expressly provide otherwise, the following definitions shall apply:

1.1 Unit means an individual air space which is contained in an enclosed room or rooms occupying all or part of a floor or floors in a Building, as hereinafter defined, and is identified thereon with a number, designated on Exhibit B attached hereto. The exact boundaries of a Unit are the interior unfinished surfaces of the walls, floors, ceilings which mark the perimeter boundaries thereof and where found along such walls, floors, and ceilings the interior surfaces of built-in fireplaces with their flues in their closed position and windows and doors in their closed position; and the Unit includes both the portions of the Building so described, the air space so encompassed and together with all fixtures and improvements therein contained but not any General Common Elements which may be within a Unit.

1.2 Condominium Unit means the fee simple interest and title in and to a Unit together with the undivided percentage interest in the general common elements and the appurtenant limited common elements and all other rights and burdens created by this declaration.

1.3 General Common Element means all of the Project, as hereinafter defined, except the portions thereof which constitute Units, and also means all parts of a Building or any facilities, improvements and fixtures which may be within a Unit which are or may be necessary or convenient to the support, existence, use, occupation, operation, maintenance, repair or safety of a Building or any part thereof or any other Unit therein.

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Without limiting the generality of the foregoing, the following shall constitute General Common Elements:

(i) all of the land and easements which are part of the Property and all building(s) which may be located on the Property;

(ii) all foundations, columns, girders, beams and supports of a Building;

(iii) all deck or yard areas, porches, storage lockers or areas, balconies, patios, fireplaces, doors, windows, carports and parking spaces (subject to specific designation for individual Owner use as Limited Common Elements, as hereinafter defined and provided);

(iv) the exterior walls of a Building, the main or bearing walls within a Building, the main or bearing subflooring and the roofs of a Building;

(v) all entrances, exits, vestibules, halls, corridors, lobbies, lounges, linen rooms, laundry rooms, locker rooms, shower and dressing rooms, kitchen facilities, exercise rooms, saunas, whirlpools, steam baths, stairs, stairways and fire escapes, if any, not within any Unit;

(vi) all offices (except as otherwise provided herein), utility, service and maintenance rooms, space, fixtures, apparatus, installations and central facilities for power, light, gas, telephone, television, hot water, cold water, heating, refrigeration, air conditioning, trash, incineration, or similar utility, service or maintenance services, including furnaces, tanks, pumps, motors, fans, compressors, flues, vents, similar fixtures, apparatus, installations and facilities; and

(vii) all other parts of the Project necessary in common use or convenient to its existence, maintenance and safety.

1.4 Limited Common Elements means those parts of the general common elements which are either limited to or reserved for the exclusive use of the owners of one or more, but less than all, of the condominium units.

1.5 Condominium Project means all of the land and improvements initially and subsequently submitted by this declaration.

1.6 Common Expenses means and includes:

(i) all sums lawfully assessed against the Owners by the Board, as hereinafter defined;

(ii) expenses of administration, maintenance, repair or replacement of the General Common Elements, as hereinafter defined;

(iii) expenses declared Common Expenses by provisions of this declaration and the By-Laws; and

(iv) expenses agreed upon as Common Expenses by a vote of the Owners representing an aggregate ownership interest of at least fifty-one percent of the General Common Elements.

1.7 Association of Unit Owners or Association means Mountain River Manor Condominium Association, Inc., a Colorado corporation not for profit, its successors and assigns. The Articles of Incorporation and By-Laws, along with this declaration, shall govern the administration of

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this condominium project; the members of which shall be all of the owners of the condominium units.

1.8 Building means one or more of the building improvements containing units as shown on the Map or amendments and supplements thereto erected within the Condominium Project.

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

1.10 Owner means a person, persons, firm, corporation, partnership, association, or other legal entity or any combination thereof, who own(s) an interest in one or more condominium units.

1.11 Mortgage means any recorded mortgage deed of trust, or any other recorded security instrument by which a condominium unit or any part thereof, or owner's interest therein, is encumbered and mortgagee shall include any grantee, beneficiary or assignee of a mortgage.

1.12 Common Surplus means the excess of all receipts of the Association, including, but not limited to, assessments, rents, profits and revenues on account of the common elements over the amount of the common expenses.

1.13 Board of Directors or Board means the governing body of the Association.

1.14 Managing Agent means the person employed by the Board to perform the management and operational functions of the Project.

1.15 By-Laws means the by-laws of the Association.

1.16 Articles means the articles of incorporation of the Association.

1.17 Guest means any agent, employee, tenant, guest, licensee or invitee of an Owner.

1.18 Declarant means the Declarant named herein and such successor or successors as may be designated hereafter by Declarant by written notice duly recorded.

1.19 Declaration means this Declaration together with any supplement or amendment hereto recorded in the office of the Clerk and Recorder of Pitkin County, Colorado.

2. Map. There shall be filed for record in the County of Pitkin, Colorado, a map, hereinafter referred to as the "Map," which Map may be filed in whole or in part, depicting thereon:

(a) The legal description of the Property;

(b) The name and general location of the Project;

(c) The linear measurements and location, with reference to the exterior boundaries of said land, of the Building(s) and all improvements built on said land;

(d) Floor plans and elevation plans of the Building(s) showing the location, the designation and the linear dimensions of each Unit, and the designation of certain of the Limited Common Elements;

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(e) The elevations of the unfinished interior surfaces of the floors and ceilings as established from a datum plan, and the linear measurements showing the thickness of the perimeter and common walls of the Building.

The Map, and any supplement(s) thereto, shall contain the statements of (i) the Declarant, submitting the Property to the provisions of this Declaration; and (ii) an engineer and a registered land surveyor certifying that the Map fully and accurately depicts the layout, measurements and location of all of the Building(s) and improvements, the Unit designations, the dimensions of such Units and the elevations of the floors and ceilings. Declarant hereby reserves unto itself and the Board, the right, from time to time, without the consent of any Owner being required, to amend the Map and supplement(s) thereto, to conform the Map to the actual location of any of the constructed improvements, to establish, vacate and relocate utility easements, access road easements and carports or parking spaces, and to establish certain General Common Elements as Limited Common Elements.

In interpreting any and all provisions of this Declaration or the By-Laws, subsequent to deeds to and/or Mortgages of Condominium Units, the actual location of a Unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered, notwithstanding any minor deviations from the location of such Unit indicated on the Map.

3. Division of Property into Condominium Units.

The real property is hereby divided into the following fee simple estates, each such estate consisting of the separately designated units and the undivided interest in and to the general common elements appurtenant to each unit as is set forth on the attached Exhibit B, which by this reference is made a part hereof. Each such unit shall be identified on the Map by number and building symbol as shown on Exhibit B.

4. Right to Combine Units.

Declarant hereby reserves the right to physically combine the area or space of one Unit with the area or space of one or more adjoining Units; provided, however, that Declarant shall not exercise said right without the written consent of any first Mortgagee having an interest in said Units. In the event of any such physical combining of Units to create a combined Unit, such combined Unit shall also include the combining of the fixtures and improvements and of the undivided interests in General Common Elements appurtenant to the Units so combined. Declarant hereby reserves the right to designate and convey to any purchaser of any such combined Unit, as additional Limited Common Elements appurtenant thereto, any walls, floors or other structural separations between the Units so combined, or any space which would be occupied by such structural separations but for the combination of such Units; provided, however, that such walls, floors or other structural separations or such space shall automatically become General Common Elements and shall no longer be Limited Common Elements if the combined Units become subject to separate ownership in the future. This reserved right of Declarant shall terminate upon the conveyance by Declarant of all the Condominium Units within the Project or December 31, 1999, whichever event first occurs.

5. Limited Common Elements.

Subject to the definition thereof, the Limited Common Elements shall be identified herein or on the Map and designated as appurtenant to a particular Condominium Unit herein or on the Map or in a deed from the Declarant. Any door, window, balcony, porch, patio or fireplace which is accessible from, associated with and/or which adjoin(s) a Unit and deck or

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yard areas, carports, parking spaces and storage lockers or areas identified as Limited Common Elements on the Map and designated as appurtenant to a particular Condominium Unit, shall, without further reference thereto, be used in connection with the Unit to which it is appurtenant to the exclusion of the use thereof by the other Owners, except by invitation.

6. Inseparability of a Condominium Unit. Each Unit, the appurtenant Limited Common Elements and the undivided interest in the General Common Elements appurtenant thereto shall together comprise one condominium unit, shall be inseparable and may be conveyed, leased, encumbered, devised or inherited only as a Condominium Unit.

7. Description of a Condominium Unit.

(a) Every deed, lease, Mortgage, will or other instrument shall legally describe a Condominium Unit by its identifying Condominium Unit number (and Building designation, if appropriate) followed by the words "Mountain River Manor Condominiums," in accordance with and subject to the Declaration of Covenants, Conditions and Restrictions of the Mountain River Manor Condominiums, recorded on _____, 19____, in Book _____ at Page _____, (Reception No. _____), and Map recorded on _____, 19____ in Book _____ at Page _____, County of Pitkin, Colorado records. Every such description shall be deemed good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the Unit but also the General Common Elements and the right to the use of the Limited Common Elements appurtenant thereto. Each such description shall be construed to include: a non-exclusive easement for ingress and egress throughout and for use of the General Common Elements which are not Limited Common Elements; the right to the exclusive use of the appurtenant Limited Common Elements; and the other easements, obligations, limitations, rights, encumbrances, covenants, conditions and restrictions created in this Declaration. The undivided fee simple interest in the General Common Elements appurtenant to any Condominium Unit shall be deemed conveyed or encumbered with that Condominium Unit, even though the legal description in the instrument conveying or encumbering said Condominium Unit may only refer to the title to that Condominium Unit.

(b) The reference to the Map and Declaration in any instrument shall be deemed to include any supplement(s) or amendment(s) to the Map or Declaration, without specific reference(s) thereto.

8. Separate Assessment and Taxation - Notice to Assessor. Declarant shall give written notice to the assessor of Pitkin County, Colorado, of the creation of condominium ownership of this property, as is provided by law, so that each Unit and the undivided interest in the General Common Elements appurtenant thereto shall be deemed a parcel and subject to separate assessment and taxation. In the event that for a period of time any taxes or assessments are not separately assessed to each unit owner, but are assessed on the property as a whole, then each unit owner shall pay his proportionate share thereof in accordance with his percentage ownership of the General Common Elements.

9. Ownership - Title. A Condominium Unit may be held and owned by more than one person as joint tenants or as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Colorado.

10. No Partition. The General Common Elements shall remain undivided, and no Owner or any other person

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shall bring any action for partition or division of the General Common Elements. Similarly, no action shall be brought for partition of a Unit or a Condominium Unit between or among the Owners thereof. Each Owner hereby expressly waives any and all such rights of partition he may have by virtue of his ownership of a Condominium Unit.

11. The Use of General and Limited Common Elements.
Each Owner shall be entitled to exclusive ownership and possession of his Unit. Each Owner may use the General and Limited Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners, subject to such reasonable rules and regulations as may, from time to time, be established pursuant to the By-Laws of the Association.

12. Use and Occupancy.

12.1 Each residential unit shall be used and occupied for residential purposes only by the owner, or by the owner's family, guests, invitees and tenants, subject to the provisions of this Declaration.

12.2 No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration, or otherwise, shall be conducted, maintained, or permitted in or on any residential unit. Lease or rental of a residential unit for lodging or residential purposes shall not be considered to be a violation of this covenant, nor shall the operation of a rental management company for units be considered a violation of this covenant. No "For Sale" or "For Rent" signs, advertising or other displays shall be maintained or permitted on any part of the property except at such location and in such form as shall be approved by the Board or the managing employee. The right is reserved by the Declarant, or its agent or agents, to place "For Sale" or "For Rent" signs on any unsold or unoccupied units, and on any part of the general common elements, and the right is hereby given to any mortgagee, who may become the owner of any unit, to place such signs on any unit owned by such mortgagee. So long as any unit is owned by it, the Declarant shall be entitled to access, ingress and egress to the building and the property as it shall deem necessary in connection with the construction or sale of the building or any unit. The Declarant shall have the right to use any unsold unit or units as a model or for sales or display purposes.

12.3 There shall be no obstruction of the general common elements nor shall anything be stored in the general common elements without the prior consent of the Board of Directors except as herein expressly provided.

12.4 Nothing shall be done or kept in any unit or in the general common elements which will increase the rate of insurance on the building, or contents thereof, without the prior written consent of the Board of Directors. No owner shall permit anything to be done or kept in his unit or in the general common elements which will result in the cancellation of insurance on the building, or contents thereof, or which would be in violation of any law. No waste shall be committed on the general common elements.

12.5 Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of the building and no sign, awning, canopy, shutter, radio or television antenna shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior consent of the Board of Directors.

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12.6 No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred, or kept in any unit or in the general common elements, unless the Board of Directors by rule or regulation provides otherwise.

12.7 No noxious or offensive activity shall be carried on in any unit or in the general common elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other owners or occupants.

12.8 Nothing shall be done in any unit or in, on or to the general common elements which will impair the aesthetic, structural or design integrity of the building or which would structurally change the building except as otherwise provided herein, nor shall anything be altered or constructed in or removed from the general common elements except as otherwise herein provided or otherwise permitted by the Association.

12.9 No clothes, sheets, blankets, laundry, or any kind of other articles shall be hung out or exposed on any part of the general common elements. The general common elements shall be kept free and clear of rubbish, debris and other unsightly materials.

12.10 There shall be no playing, lounging, parking of baby carriages or playpens, bicycles, wagons, toys, vehicles, benches, chairs or other personal property on any part of the general common elements without the prior consent of, and subject to the regulations of, the Association.

12.11 Each owner hereby waives and releases any and all claims which he may have against any other owner, the Association, the officers, and members of the Board, the Declarant, the managing employee, and their respective officers, employees, and agents, for damages to the general common elements, the units, or to any personal property located in the units or general common elements, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance.

12.12 If, due to the act or neglect of an owner, or of a member of his family or of a guest, tenant, invitee, or other authorized occupant or visitor of such owner, damage shall be caused to the general common elements or to a unit or units owned by others, or to any boiler room, heating unit, pipes, ducts, apparatus or equipment or maintenance, repairs or replacements shall be required which would otherwise be at the common expense, then such owner shall pay for such damages and such maintenance, repairs and replacements, as may be determined by the Board, to the extent not covered by insurance.

12.13 No owner shall overload the electric wiring in the building, or operate any machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others.

13. Easements.

(a) Association Rights: The Association, the Board and the Managing Agent shall have a non-exclusive right and easement to make such use of and to enter into or upon the General Common Elements, the Limited Common Elements and the Units as may be necessary or appropriate for the performance of the duties and functions which they are obligated or permitted to perform under this Declaration.

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(b) Owners' Easements for Access, Support and Utilities: Each Owner shall have a non-exclusive easement for access between his Unit and the roads and streets adjacent to the Project and the roads, streets and driveways in the Project, over and on the halls, corridors, stairs, walks, bridges and exterior access and other easements which are part of the General Common Elements. Each Owner shall have a non-exclusive easement in, on and over the General Common Elements within the Unit of another Owner, for horizontal and lateral support of the Unit which is part of his Condominium Unit, for utility service to that Unit, including but not limited to, water, sewer, gas, electricity, telephone and television service and for the release of smoke, arising from any fireplace within a Unit, through the flue leading therefrom.

(c) If any portion of the General Common Elements encroaches or shall hereafter encroach upon a Unit, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion of a Unit now or hereafter encroaches upon the General Common Elements or upon another Unit, the Owner of that Unit shall and does have a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. For title or other purposes, such encroachments and easements shall not be considered or determined to be encumbrances either on Common Elements or on a Condominium Unit. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the Building(s), by error in the Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

(d) Easements in Units for Repair, Maintenance and Emergencies: Some of the General Common Elements are or may be located within a Unit or may be conveniently accessible only through a particular Unit. The Association, Board and Managing Agent and each Owner shall have an easement, which may be exercised for any Owner by the Association, the Board or the Managing Agent, as his agent, for access through each Unit and to all General Common Elements, from time to time, during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the General Common Elements located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the General Common Elements or to another Unit, or for making repairs or replacements pursuant to Paragraph 17 hereafter. Damage to the interior or any part of a Unit resulting from the maintenance, repair, emergency repair or replacement of any of the General Common Elements, or as a result of emergency repairs within another Unit, at the instance of the Association, the Board or the Managing Agent, shall be a Common Expense of all of the Owners. No diminution or abatement of Common Expense assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements or from action taken to comply with any law, ordinance or order of any governmental authority. Restoration of the damaged improvements shall be substantially the same as the condition in which they existed prior to the damage. Notwithstanding the foregoing, if any such damage is the result of the carelessness or negligence of any Owner, then such Owner shall be solely responsible for the costs and expenses of repairing such damage.

(e) Easements Deemed Appurtenant: The easements, uses and rights herein created for an Owner shall be appurtenant to the Condominium Unit of that Owner and all conveyances of and other instruments affecting title to a Condominium Unit shall be deemed to grant and reserve the

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easements, uses and rights as are provided for herein, even though no specific reference to such easements, uses and rights appears in any such conveyance.

(f) Emergency Easement: A non-exclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons, now or hereafter servicing the Project, to enter upon all streets, roads and driveways located in the Project, and upon the Property, in the performance of their duties.

14. Liens Against Condominium Units -- Removal From Lien -- Effect of Part Payment.

(a) No labor performed or materials furnished and incorporated in a Unit with the consent or at the request of the Owner thereof or his agent or his contractor or subcontractor shall be the basis for the filing of a lien pursuant to law against the Condominium Unit or other property of any other Owner not expressly consenting to or requesting the same, except that express consent shall be deemed to be given by the Owner of any Condominium Unit to the Managing Agent or the Board in the case of emergency repairs. Labor performed or materials furnished for the General Common Elements, if duly authorized by the Managing Agent or the Board of Directors in accordance with the Declaration or By-Laws, shall be deemed to be performed or furnished with the express consent of each Owner and shall be the basis for the filing of a lien pursuant to law against each of the Condominium Units in the Project.

(b) In the event a lien is effected against two or more Condominium Units, the Owners of the separate Condominium Units may remove their Condominium Units from said lien by payment of the fractional or proportional amount attributable to each of the Condominium Units affected. Individual payment shall be computed by reference to the percentages appearing in this Declaration. Subsequent to payment, discharge or other satisfaction, the Condominium Unit shall be released from the lien paid, satisfied or discharged. Partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce his rights against any Condominium Unit not so released or discharged.

(c) Each Owner shall indemnify and hold harmless each of the other Owners from and against the liability or loss arising from the claim of any lien against the Condominium Unit of the Owner, or any part thereof, for construction performed or for labor, materials, services, or other products incorporated in or otherwise attributable to the Owner's Unit at such Owner's request. At the written request of any Owner, the Association shall enforce such indemnity by collecting from the Owner of the Condominium Unit on which the labor was performed or materials furnished the amount necessary to discharge any such lien and all costs incidental thereto, including reasonable attorney's fees. If not promptly paid, the Association may proceed to collect the same in the manner provided herein for collection of assessments for the purpose of discharging the lien.

15. The Association.

(a) General Purposes and Powers. The Association, through the Board or the Managing Agent, shall perform functions and hold and manage property as provided in this Declaration so as to further the interests of Owners of Condominium Units in the Project. It shall have all powers necessary or desirable to effectuate such purposes.

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(b) Membership: The Owner of a Condominium Unit shall automatically become a member of the Association. Said membership is appurtenant to the Condominium Unit of said Owner and the ownership of the membership for a Condominium Unit shall automatically pass with fee simple title to the Condominium Unit. Each Owner shall automatically be entitled to the benefits and subject to the burdens relating to the membership for his Condominium Unit. If the fee simple title to a Condominium Unit is held by more than one person, each Owner of a Condominium Unit shall be a member of the Association. Memberships in the Association shall be limited to Owners of Condominium Units in the Project.

(c) Board of Directors: The affairs of the Association shall be managed by a Board of Directors which may by resolution delegate any portion of its authority to an executive committee, or to a director or Managing Agent for the Association. There shall be not less than three nor more than five members of the Board of Directors, the specific number to be set forth from time to time in the By-Laws, all of whom shall be Owners elected by Owners. Regardless of the number of members of the Board of Directors, the terms of at least one-third of such Board shall expire annually.

(d) Voting of Owners: The Owner or Owners of each Condominium Unit shall be entitled to one vote for each such Condominium Unit owned by said Owner or Owners.

(e) By-Laws and Articles: The purposes and powers of the Association and the rights and obligations with respect to Owners set forth in this Declaration may and shall be amplified by provisions of the Articles and By-Laws of the Association.

16. Certificate of Identity. There shall be recorded from time to time a certificate of identity which shall include the addresses of the persons then comprising the management body (Directors and Officers) together with the identity and address of the Managing Agent. Such certificate shall be conclusive evidence of the information contained therein in favor of any person relying thereon in good faith regardless of the time elapsed since the date thereof. The first such certificate shall be recorded on or before December 31, 1982.

17. Owners' Maintenance Responsibility of Unit, Balconies, Parking, and Storage Areas. For purposes of maintenance, repair, alteration and remodeling, an Owner shall be deemed to own the interior non-supporting walls, the materials (such as, but not limited to, plaster, gypsum dry wall, paneling, wallpaper, paint, wall and floor tile and flooring, but not including the sub-flooring) making up the finished surfaces of the perimeter walls, ceilings and floors within the Unit, including the Unit doors and windows. The Owner shall not be deemed to own lines, pipes, wires, conduits, or systems (which for brevity are herein and hereafter referred to as utilities) running through his Unit which serve one or more other Units except as a tenant in common with the other Owners. Such utilities shall not be disturbed or relocated by an Owner without the written consent and approval of the Board of Directors. Such right to repair, alter and remodel is coupled with the obligation to replace any finishing or other materials removed with similar or other types or kinds of materials. An Owner shall maintain and keep the interior of his own Unit in good taste and repair, including the fixtures thereof. All fixtures and equipment installed within the Unit commencing at a point where the utility lines, pipes, wires, conduits or systems (which for brevity are hereafter referred to as "utilities") enter the Unit shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act nor

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any work that will or may impair the structural soundness or integrity of the building or impair any easement or hereditament without the written consent of the Board of Directors of the Association, after first proving to the satisfaction of the Board of Directors that such structural soundness or integrity will be maintained during and after any such act or work shall be done or performed. Any expense to the Board of Directors for investigation under this paragraph 14 shall be borne by the Owner. However, nothing herein contained shall be construed to permit structural modification and any decision relating thereto shall be in the absolute discretion of the Board of Directors, including, but not limited to the engaging of a structural engineer at the Owner's expense for the purpose of obtaining his opinion. An Owner shall also keep the balcony area appurtenant to his unit in a clean and sanitary condition and free and clear of snow, ice and any accumulation of water. All other maintenance or repairs to any Limited Common Elements, except as caused or permitted by the Owner shall be at the expense of all of the Owners.

18. Compliance With Provisions of Declaration, Articles, By-laws of the Association. Each Owner shall comply strictly with the provisions of this Declaration, Articles of Incorporation and By-Laws of the Association, and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to so comply with any of the same shall be grounds for an action to recover sums due and for damages or injunctive relief or both, and for reimbursement of all costs and attorney's fees incurred in connection therewith, which action shall be maintainable by the Managing Agent (where appropriate), or Board of Directors in the name of the Association in behalf of the Owners or, in a proper case, by an aggrieved Owner or Owners.

19. Revocation Or Amendment To Declaration.

19.1 This Declaration shall not be revoked unless all of the Owners and all of the holders of any recorded Mortgage or deed of trust covering or affecting any or all Condominium Units unanimously consent and agree to such revocation by instrument(s) which shall be duly recorded. This Declaration shall not be amended unless the Owners representing an aggregate ownership interest of eighty percent (80%), or more, of the General Common Elements and all of the holders of any recorded mortgage or deed of trust covering or affecting any or all Condominium Units consent and agree to such amendment by instrument(s) duly recorded; provided, however, that the percentage of the undivided interest in this Declaration shall have a permanent character and shall not be altered without the consent of all of the Unit Owners expressed in an amended Declaration duly recorded.

19.2 Until the first condominium unit is conveyed by deed recorded among the Public Records of the County in which the condominium property is located, the Declarant shall have the sole right to amend, alter, change or modify the terms and provisions of this Condominium Declaration, except that no such amendment, alteration, change or modification in the percentage of ownership in common elements appurtenant to each condominium unit or alteration of the basis for apportionment of assessments which may be levied by the Association in accordance with the provisions hereof may be made without the written consent of all persons who have theretofore contracted to purchase a condominium unit in the condominium.

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20. Certain Rights and Obligations of the Association.

(a) Association as Attorney-in-Fact for Owners: The Association is hereby irrevocably appointed attorney-in-fact for the Owners, and each of them, to manage, control and deal with the interest of each Owner in the General Common Elements so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder, to deal with the Project upon its destruction or obsolescence as hereinafter provided and to grant utility easements through any portion of the General Common Elements. The acceptance by any person of any interest in any Condominium Unit shall constitute an appointment of the Association as attorney-in-fact as provided above and hereinafter. The Association is hereby granted all of the powers necessary to govern, manage, maintain, repair, rebuild, administer and regulate the Project and to perform all of the duties required of it. Notwithstanding the above, nor any other provision of this Declaration inconsistent herewith, unless at least two-thirds (2/3) of the first Mortgagees of Condominium Units (based upon one vote for each first Mortgagee owned) or at least two-thirds (2/3) of the Owners (excluding Declarant) have given their prior written approval, the Association shall not be empowered or entitled to:

(i) By act or omission, seek to abandon or terminate the Project;

(ii) Change the pro rata interest or obligations of any individual Condominium Unit for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards;

(iii) Partition or subdivide any Condominium Unit;

(iv) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer (excluding the granting of easements for public utilities or other public purposes consistent with the intended use of the General Common Elements) any of the General or Limited Common Elements; and

(v) use hazard insurance proceeds for loss to the Project (whether Units or General Common Elements) for other than repair, replacement or reconstruction thereof.

(b) General Common Elements: The Association shall provide for the care, operation, management, maintenance, repair and replacement of the General Common Elements, except as is otherwise provided for in this Declaration. Without limiting the generality of the foregoing, said obligations shall include the keeping of such General Common Elements in good, clean, attractive and sanitary condition, order and repair; removing snow and any other materials from such General Common Elements which might impair access to the Project or the Units; keeping the Project safe, attractive and desirable; and making necessary or desirable alterations; additions, betterments or improvements to or on the General Common Elements.

(c) Other Association Functions: The Association may undertake any activity, function or service for the benefit of or to further the interests of all, some or any Owners on a self-supporting, special assessment or

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common assessment basis. Such activities, functions or services may include the providing of police or similar security services, the providing of garbage and trash collection services, the providing of firewood, and the providing of maid and cleaning service for individual Units.

(d) Labor and Services: The Association (i) may obtain and pay for the services of a Managing Agent to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person with whom or which it contracts; (ii) may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration; and (iii) may arrange with others to furnish lighting, heating, water, trash collection, sewer service and other common services.

(e) Property of Association: The Association may pay for, acquire and hold or lease real property (for any and all purposes set forth in this Declaration) and tangible and intangible personal property and may dispose of the same by sale or otherwise. Subject to the rules and regulations of the Association, each Owner and each Owner's family and guests may use such property. Upon termination of condominium ownership of the Project and dissolution of the Association, if ever, the beneficial interest in any such property shall be deemed to be owned by the then Owners as tenants in common in the same proportion as their respective interests in the General Common Elements. A transfer of a Condominium Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto. Each Owner may use such property in accordance with the purposes for which it is intended, without hindering or encroaching upon the lawful rights of the other Owners. The transfer of title to a Condominium Unit under foreclosure shall entitle the purchaser to the beneficial interest in such property associated with the foreclosed Condominium Unit.

(f) Association Right to Lease and License General Common Elements: The Association shall have the right to lease or license or permit the use of, by less than all Owners or by non-owners, on either a short-term basis or long-term basis and with or without charge as the Association may deem desirable, any portion of the General Common Elements or any Condominium Unit owned by the Association (which Condominium Unit may be purchased from the Declarant as provided in this Declaration hereinabove). The rights granted to the Association in this subparagraph shall only be used in the promotion of the collective best interests of the Owners. Further, the Association shall have the right to grant utility easements under, through or over the General Common Elements which are reasonably necessary to the ongoing development and operation of the Project.

(g) Mortgagee Notification: The Association shall notify each first Mortgagee of any proposed material amendment of the Association's Articles or By-Laws at least ten (10) days prior to the effective date of such amendment or change. Further, upon the written request of any first Mortgagee, such first Mortgagee shall be entitled to receive the most recent annual financial statement of the Association and such first Mortgagee shall have the right to designate a representative to attend any such meeting.

(h) Enforcement by Association: The Board may suspend any Owner's voting rights in the Association or the right of an Owner to use the recreational facilities of

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the Project during any period or periods during which such Owner fails to comply with the Association's rules and regulations, or with any other obligations of such Owner under this Declaration. The Association may also take judicial action against any Owner to enforce compliance with such rules, regulations or other obligations herein or in the By-Laws contained or to obtain damages for noncompliance thereof, all to the extent permitted by law. The Board may impose a fine, not to exceed \$300.00, on any Owner for each violation or act of noncompliance by any such Owner or his guest.

(i) Implied Rights: The Association shall have and may exercise any right or privilege given to it expressly by this Declaration or the Articles or By-Laws, or reasonably to be implied from the provisions of said documents, or given or implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges.

21. Assessment For Common Expenses.

(a) All Owners, except Declarant, shall be obligated to pay the estimated assessments imposed by the Board of Directors to meet the Common Expenses from and after the conveyance of the first Condominium Unit to such Condominium Unit's original purchaser. The assessments shall be made pro rata according to each Owner's fractional interest in and to the General Common Elements. Declarant shall be obligated as any other Owner in reference to Condominium Units then owned by Declarant to pay the estimated Common Expense assessments imposed by the Board to meet the Common Expenses. Except as hereinbefore provided, the Limited Common Elements shall be maintained as General Common Elements and Owners having the exclusive use thereof shall not be subject to any special charges as assessments. Assessments for the estimated Common Expenses shall be due, in advance, either monthly or quarterly as determined by the Board of Directors. The Managing Agent or Board of Directors shall prepare, and deliver or mail to each Owner an itemized annual budget showing the various estimated or actual expenses for which the assessments are made. Contributions for monthly assessments shall be prorated if the ownership of a Condominium Unit commences on a day other than the first day of a month. The assessments made for Common Expenses shall be based upon the requirements as the Board of Directors shall from time to time determine is necessary to be paid to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the General Common Elements, which sum may include, among other things: expenses of management; taxes and special assessments, until separately assessed; premiums for insurance of the types and kinds provided for in paragraph 24 hereafter; landscaping and care of grounds; common lighting and heating; repairs and renovations; trash collections; wages; water and sewer charges; legal and accounting fees; capital expenditures made by the Board not exceeding \$1,000.00 in any one calendar year (unless a greater amount is approved by Owners owning a majority interest in the General Common Elements); expenses and liabilities incurred by the Managing Agent or Board of Directors under or by reason of this Declaration; deficits remaining from a previous period; and other costs and expenses relating to the General Common Elements. Further, it shall be mandatory for the Board to establish and segregate, out of such quarterly assessments, a contingency or reserve fund for the repair, replacement and maintenance of those General Common Elements that must be replaced periodically. The omission or failure of the Board of Directors to fix the assessment for any month or quarter shall not be deemed a waiver, modification or a release of

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the Owners from their obligation to pay same. Any Owner or first Mortgagee may, pursuant to Colo. Rev. Stat. Ann. Sec. 38-33-107 (1973, as amended), inspect the Association's records of receipts and expenditures at any reasonable time during convenient weekday business hours, and, upon ten days' notice to the Board of Directors or Managing Agent, if any, and upon payment of a reasonable fee, not to exceed Twenty Dollars, any Owner or first Mortgagee of such Owner shall be furnished a statement of account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner. At the end of any calendar year, the Board of Directors may, but shall not be required to, refund to each Owner his proportionate share of funds then held by the Association which are not deemed to be necessary to meet the Common Expenses. Each Owner shall be obligated to pay all charges for any separately metered utilities servicing his Unit. All utilities that are master metered shall be a Common Expense hereunder.

(b) The Board of Directors shall have the right during any calendar year to levy and assess against all of the Owners a special assessment for such purpose or purposes, in accordance with this Declaration, the Articles or By-Laws, as may be necessary to keep the Project as a first class residential property. Such special assessment shall be borne by the Owners in accordance with each Owner's interest in the General Common Elements and shall be due and payable as determined by the Board of Directors.

22. Assessment Reserves. The Association may require an Owner, other than Declarant, to deposit with the Association an amount not exceeding two times the amount of the estimated monthly or quarterly common assessment, which sum shall be held, without interest, by the Association as a reserve to be used for paying such Owner's quarterly common assessment and for working capital. Such an advance payment shall not relieve an Owner from making the regular common assessment payment as the same comes due. Upon the transfer of his Condominium Unit, an Owner shall be entitled to a credit from his transferee for any unused portion thereof. Such reserves shall at all times remain as capital of the Association.

23. Additions, Alterations and Improvements - General and Limited Common Elements. There shall be no special assessments in excess of \$5,000.00 levied by the Board of Directors in any one calendar year, nor any capital additions, alterations or improvements, of or to the General or Limited Common Elements by the Association requiring expenditure(s) in excess of \$5,000.00 in any one calendar year, without, in each case, prior approval by the Owners owning a majority interest in the General Common Elements, except in the event of an emergency; the limitations set forth above shall not apply to any expenditures made by the Association for maintenance and repair of the General Common Elements as set forth in Paragraph 17 hereof, or for repair in the event of damage, destruction or condemnation as provided in Paragraphs 29 and 30 hereof.

24. Insurance.

(a) The Board of Directors shall obtain and maintain at all times, to the extent obtainable, policies of insurance, written with financially responsible and able companies licensed to do business in Colorado, covering the risks set forth below. The types of coverages to be obtained and risks to be covered are as follows, to-wit:

(1) Insurance against loss or damage by fire and lightning, and such other hazards as are customarily covered in condominium projects in the County of

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Pitkin, Colorado, under extended coverage and all risk endorsements. Said casualty insurance shall insure the entire Project and any property, the nature of which is a General Common Element (including all of the Units and the fixtures therein initially installed or conveyed by the Declarant) together with all service equipment contained therein in an amount equal to the full replacement value, without deduction for depreciation. All policies shall contain a standard non-contributory mortgage clause in favor of each first Mortgagee, which shall provide that the loss, if any, thereunder, shall be payable to the Association for the use and benefit of such first Mortgagees as their interests may appear.

(2) If the Project is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards and the sale of Flood Insurance has been made available under the National Flood Insurance Act of 1968, a "blanket" policy of flood insurance on the Project in an amount which is the lesser of the maximum amount of insurance available under the Act or the aggregate of the unpaid principal balances of the first Mortgagees on the Condominium Units comprising the Project.

(3) Bodily injury and property damage liability insurance in such limits as the Board may from time to time determine, but not in an amount less than \$500,000.00 per injury, per person, per occurrence and umbrella liability limits of \$1,500,000.00 per occurrence, covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other use of the Project. All liability insurance shall name the Association, the Board, the Managing Agent, the Declarant, first Mortgagees, the Owners and the officers of the Association, as insureds thereunder. If there are steam boilers in operation on the Project, there must be in force boiler explosion insurance providing for not less than \$50,000.00 per accident per location.

(4) Workmen's Compensation and employer's liability insurance and all other similar insurance with respect to employees and subcontractors of the Association in the amounts and in the forms now or hereafter required by law.

(5) The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Project, including plate or other glass insurance, insurance for any personal property of the Association located thereon, and errors and omissions insurance with respect to the actions of the Board of Directors and officers of the Association.

(b) All policies of insurance, to the extent obtainable, shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be cancelled or modified without at least twenty (20) days' written notice to all of the Owners, first Mortgagees and the Association. If requested, duplicate originals of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered to all first Mortgagees at least ten (10) days prior to expiration of the then current policies. All casualty insurance shall be carried in blanket form naming the Association as the insured, as attorney-in-fact for all of the Owners, as their

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interests may appear, which policy or policies shall identify the interest of each Owner (Owner's name and Condominium Unit number designation) and first Mortgagee.

(c) Prior to obtaining any policy of casualty insurance or renewal thereof, pursuant to the provisions of this insurance paragraph, the Board shall obtain an appraisal from the insurance appraiser of the company issuing such insurance, which appraiser shall reasonably estimate the full replacement value of the entire Project, without deduction for depreciation, for the purpose of determining the amount of the insurance to be effected pursuant to the provisions of this insurance paragraph. In no event shall the insurance policy contain a co-insurance clause for less than one hundred percent (100%) of the full replacement cost with an agreed amount endorsement. Determination of maximum replacement value shall be made annually, and each first Mortgagee, if requested, shall be furnished with a copy thereof, within thirty (30) days after receipt of such written appraisals. Such amounts of insurance shall be contemporized annually in accordance with their currently determined maximum replacement value.

(d) Owners may carry other insurance for their benefit and at their expense, provided that the liability of the carriers issuing insurance obtained by the Board shall not be affected or diminished by reason of any such additional insurance carried by any Owner.

(e) Insurance coverage on improvements and fixtures installed by an Owner and furnishings, including draperies, unattached carpeting and appliances, wallpaper and other items of personal property belonging to an Owner, and public liability coverage within each Unit shall be the sole and direct responsibility of the Owner thereof, and the Board of Directors, the Association and/or the Managing Agent shall have no responsibility therefor.

(f) In the event that there shall be any damage, destruction or loss to a Unit or any damage, destruction or loss to the General Common Elements, then notice of such damage or loss shall be given by the Association to the first Mortgagee of said Condominium Unit within ten (10) days after the occurrence of such event.

(g) All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including payment of the insurance premium applicable to that Owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under any such policy, as to the interests of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

25. Owners' Personal Obligation for Payment of Assessments. The amount of the Common Expenses assessed against each condominium unit shall be the personal and individual debt of the Owner thereof. No Owner may exempt himself from liability for his contribution towards the Common Expenses by Waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Unit. Both the Board of Directors and Managing Agent shall have the responsibility to take prompt action to collect any unpaid assessment which remains unpaid more than fifteen (15) days from the due date for payment thereof. In the event of default

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in the payment of the assessment, the unit owner shall be obligated to pay interest at the rate of 18 percent per annum on the amount of the assessment from due date thereof, together with all expenses, including attorneys' fees incurred, together with such late charges as provided by the By-Laws of the Association. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable by the Managing Agent, or any aggrieved Owner without foreclosure or waiving the lien securing same.

26. Assessment Lien and Foreclosure. All sums assessed but unpaid for the share of Common Expenses chargeable to any Condominium Unit shall constitute a lien on such Unit superior (prior) to all other liens and encumbrances except:

(a) Tax and special assessment liens on the Unit in favor of any assessing entity; and

(b) All sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance, including additional advances, refinance or extension of these obligations made thereon prior to the arising of such a lien.

To evidence such lien, the Board of Directors or the Managing Agent shall prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the defaulting Owner of the Condominium Unit and a description of the Condominium Unit. Such a notice shall be signed by one of the Board of Directors or by one of the officers of the Association or by the Managing Agent and shall be recorded in the office of the Clerk and Recorder of the County of Pitkin, State of Colorado. Such lien for the Common Expenses shall attach from the date of the failure of payment of the assessment and may be enforced by foreclosure on the defaulting Owner's Condominium Unit by the Association in like manner as a mortgage or deed of trust on real property upon recording of a notice of claim thereof. In any such foreclosure proceedings the defaulting Owner shall be required to pay the Association the quarterly assessment for the condominium unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power to bid on the Condominium Unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same. Any encumbrancer holding a lien on a Condominium Unit may pay, but shall not be required to pay, any unpaid Common Expenses payable with respect to such Unit, and upon such payment such encumbrancer shall have a lien on such Unit for the amounts paid of the same priority as the lien of his encumbrance. Upon request of a mortgagee, the Association shall report to the mortgagee of a condominium unit any unpaid assessments remaining unpaid for longer than twenty-five days after the same are due; provided, however, that a mortgagee shall have furnished to the Managing Agent or the Board of Directors notice of such encumbrance.

27. Liability for Common Expense Upon Transfer of Condominium Unit is Joint. Upon payment to the Managing Agent, or if there is no Managing Agent, then to the Association, of a reasonable fee, and upon the written request of any Owner or any Mortgagee or prospective Mortgagee of a Condominium Unit, the Association, by its Managing Agent, or if there is no Managing Agent then by the financial officer of the Association shall issue a written statement setting forth the amount of the unpaid Common Expenses, if any, with respect to the subject Unit, the amount of the current quarterly assessment and the date such assessment becomes due, credit for any advanced payments of

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common assessments, for prepaid items, such as insurance premiums, but not including accumulated amounts for reserves or sinking funds, if any, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within ten days, all unpaid Common Expenses which become due prior to the date of making such request shall be subordinate to the lien of the person requesting such statement. The grantee of a Condominium Unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his proportionate share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor; provided, however, that upon payment of a reasonable fee, as is hereinabove provided, and upon written request, any such prospective grantee shall be entitled to a statement from the Managing Agent, or if there is no Managing Agent, then by the financial officer of the Association, setting forth the amount of the unpaid assessments, if any, with respect to the subject unit, the amount of the current quarterly assessment and the date that such assessment becomes due, credit for any advanced payments of common assessments, prepaid items, such as insurance premiums, which statements shall be conclusive upon the Association. Unless such request for such a statement shall be complied with within ten days of such request, then such requesting grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments against the subject Unit.

28. Mortgaging a Condominium Unit - Priority. An Owner shall have the right from time to time to mortgage or encumber his Condominium Unit by deed of trust, mortgage or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The Owner of a Condominium Unit may create junior mortgages (junior to the lien, deed of trust or other encumbrance of the first Mortgagee) on his Condominium Unit on the following conditions: (1) Any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for common expenses, and other obligations created by this Declaration and the By-Laws; and (2) The Mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises which insurance policies were effected and placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of the Managing Agent or one or more of the Board of Directors of the Association, and if not furnished, may be executed by the Association as attorney-in-fact for such junior Mortgagee.

29. Association As Attorney-in-Fact -- Damage and Destruction -- Obsolescence. This Declaration does hereby make mandatory the irrevocable appointment of an Attorney-in-Fact to deal with the Project upon its destruction, repair or obsolescence.

Title to any Condominium Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute appointment of the Attorney-in-Fact herein provided. All of the Unit Owners irrevocably constitute and appoint the Association, their true and lawful attorney in their name, place and stead for the purpose of dealing with the Project upon its destruction, repair or obsolescence as is hereafter

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provided. As Attorney-in-Fact the Association, by its president and secretary, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a Condominium Unit Owner which are necessary and appropriate to the exercise of the powers herein granted. Repair and reconstruction of the improvement(s) as used in the succeeding subparagraphs means restoring the improvement(s) to substantially the same condition in which they existed prior to the damage, with each Unit and the General Common Elements and Limited Common Elements appurtenant thereto having substantially the same vertical and horizontal boundaries as before. Except as is otherwise herein provided, the proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration or replacement unless all Owners of the Condominium Units and all first mortgagees thereof agree not to rebuild in accordance with the provisions set forth hereinafter.

(a) In the event of damage or destruction to the Project to the extent of not more than sixty-six and two-thirds percent (66 2/3%) of the total replacement cost thereof, not including land, due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as Attorney-in-Fact to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed. The Association shall have full authority, right and power, as Attorney-in-Fact, to cause the repair and restoration of the improvement(s).

(b) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is to the extent of not more than sixty-six and two-thirds percent (66 2/3%) of the total replacement cost of the Project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association as Attorney-in-Fact, using the proceeds of insurance and the proceeds of an assessment to be made against all of the Unit Owners and their Condominium Units. Such deficiency assessments shall be a Common Expense and made pro rata according to each Owner's fractional interest in the General Common Elements, and shall be due and payable within thirty days after written notice thereof. The Association shall have full authority, right and power as Attorney-in-fact to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his Condominium Unit and may be enforced and collected as is provided in Paragraph 26. In addition thereto, the Association as Attorney-in-Fact shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association as Attorney-in-Fact. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association as Attorney-in-Fact, in the following order:

(1) For payment of taxes and special assessment liens in favor of any assessing entity;

(2) For payment of the balance of the lien of any first mortgage;

(3) For payment of unpaid Common Expenses;

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(4) For payment of junior liens and encumbrances in the order of and to the extent of their priority; and

(5) The balance remaining, if any, shall be paid to the Condominium Unit Owner.

(c) If the Project is destroyed or damaged to the extent of more than sixty-six and two-thirds percent (66 2/3%) of the total replacement cost thereof, not including land, the Association shall adopt a plan for the repair and reconstruction of the Project, and all Owners shall be bound by the terms and provisions of such plan, unless the Owners representing an aggregate ownership interest of seventy-five percent (75%), or more, of the General Common Elements and at least seventy-five percent (75%) of the first Mortgagees (based upon one vote for each first Mortgagee owned) vote not to adopt such plan within one hundred (100) days after the damage or destruction. The Association shall have the right to use, in accordance with such plan, all proceeds of insurance for such destruction or damages, as well as the proceeds of an assessment to be made against all of the Owners and their Condominium Units. Any assessment made in connection with such plan shall be a Common Expense and made pro-rata according to each Owner's percentage interest in the General Common Elements and shall be due and payable as provided by the terms of such plan, but not sooner than thirty (30) days after written notice thereof. The Association shall have full authority, right and power, as Attorney-in-Fact, to cause the repair or restoration of the improvements, using all of the insurance proceeds for such purpose, notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his Condominium Unit and may be enforced and collected as is provided hereinabove. In addition thereto, the Association, as Attorney-in-Fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association as Attorney-in-Fact, for the same purposes and in the same order as is provided in subparagraphs (b) (1) through (5) of this paragraph.

(d) If the Project is damaged or destroyed to the extent of more than sixty-six and two-thirds (66 2/3%) of the total replacement cost thereof, not including land, and if the Owners representing an aggregate ownership interest of seventy-five percent (75%) or more, of the General Common Elements and at least seventy-five percent (75%) of the first mortgages (based upon one vote for each first mortgage owned) vote not to adopt a plan for repair and reconstruction, then the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's president and secretary, the remaining Project shall be sold by the Association as Attorney-in-Fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Map and the Articles and By-Laws. The insurance settlement proceeds shall be collected by the Association and such proceeds shall be divided by the Association according to each Owner's fractional interest (as such interests appear on the policy or policies), and such apportioned proceeds shall be paid into separate accounts representing each such Condominium Unit. Each such account shall be in the name of the Association, and shall be further identified by the Condominium Unit designation and the name of the Owner. Thereafter, each such account

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shall be supplemented by the apportioned amount of the proceeds derived from the sale of the entire Project. Such apportionment shall be based upon each Owner's percentage interest in the General Common Elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, for the same purposes and in the same order as provided in subparagraph (b) (1) through (5) of this Paragraph. The provisions contained in this subparagraph shall not hinder the protection given to a first Mortgagee under a mortgagee endorsement.

(e) The Owners representing an aggregate ownership interest of eighty-five percent (85%), or more, of the General Common Elements may agree that the Condominium Units are obsolete and adopt a plan for the renewal or reconstruction, which plan shall have the approval or consent of at least eighty-five percent (85%) of the first Mortgagees (based upon one vote for each first Mortgage owned). If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded, then the expenses thereof shall be payable by all of the Owners as Common Expenses; provided, however, that any Owner not in agreement to such renewal or construction may give written notice to the Association within fifteen (15) days after the adoption of such plan that his or its Condominium Unit shall be purchased by the Association for the fair market value thereof. The Association shall then have fifteen (15) days within which to cancel such plan. If such plan is not cancelled then the Condominium Unit shall be purchased by the Association according to the following procedures. If such Owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within thirty days thereafter. If the parties are unable to agree, the date when either party notified the other that he or it is unable to agree with the other shall be the "commencement date" from which all periods of time mentioned herein shall be measured. Within ten days following the commencing date, each party shall nominate in writing, and give notice of such nomination to the other party, an independent appraiser who may be a realtor and be qualified to make appraisals of condominiums and similar property in Pitkin County, Colorado. If either party fails to make such a nomination, the appraiser nominated shall, within five days after default by the other party, appoint and associate with him another similarly qualified appraiser. If the two appraisers designated by the parties, or selected pursuant hereto in the event of the default of one party, are unable to agree, they shall appoint another similarly qualified appraiser to be arbitrator between them, if they can agree on such person. If they are unable to agree upon such arbitrator, then each appraiser previously appointed shall nominate two independent appraisers and from the names of the four persons so nominated one shall be drawn by lot by any judge of any court of record in Colorado and the name so drawn shall be such arbitrator. The nominations from whom the arbitrator is to be drawn by lot shall be submitted within ten (10) days of the failure of the two appraisers to agree, which, in any event, shall not be later than twenty (20) days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value, or in the case of their disagreement, then such decision of the arbitrator, shall be final and binding. The expenses and fees of such appraisers shall be borne equally by the Association and the Owner. The sale shall be consummated within fifteen (15) days thereafter, and the Association as Attorney-in-Fact shall disburse such proceeds as is provided in subparagraphs (b) (1) through (5) of this Paragraph.

(f) The Owners representing an aggregate ownership interest of eighty-five percent (85%), or more, of

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the General Common Elements may agree that the Condominium Units are obsolete and that the same should be sold. Such plan (agreement) must have the unanimous approval or consent of every first Mortgagee. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's president and secretary, the entire Project shall be sold by the Association, as Attorney-in-Fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Map, the Articles and the By-Laws. The sales proceeds shall be apportioned between the Owners on the basis of each Owner's percentage interest in the General Common Elements, and such apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium Unit. Each such account shall be in the name of the Association, and shall be further identified by the Condominium Unit designation and the name of the Owner. From each separate account the Association, as Attorney-in-Fact, shall use and disburse the total amount (of each) of such accounts, without contribution from one account to another, for the same purposes and in the same order as is provided in subparagraphs (b)(1) through (5) of this paragraph.

30. Condemnation.

(a) Consequences of Condemnation: If at any time or times during the continuance of condominium ownership pursuant to this Declaration, all or any part of the Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the provisions of this Paragraph 30 shall apply.

(b) Proceeds: All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award," shall be payable to the Association.

(c) Complete Taking: In the event that the entire Project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, condominium ownership pursuant to this Declaration shall terminate. The Condemnation Award shall be apportioned among the Owners in proportion to their respective undivided interests in the General Common Elements, provided that if a standard different from the value of the Project as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree, or otherwise, then in determining such share the same standard shall be employed to the extent it is relevant and applicable.

(d) Partial Taking. In the event that less than the entire Project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner: As soon as practicable, the Association shall, reasonably and in good faith, allocate the Condemnation Award among compensation, damages or other proceeds, and shall apportion the amounts so allocated among the Owners, as follows: (a) the total amount allocated to taking of or injury to the General Common Elements shall be apportioned among the Owners in proportion to their respective undivided interests in the General Common Elements, (b) the total amount allocated to severance damages shall be apportioned to those Condominium Units which were not taken or condemned, (c) the respective amounts allocated to the taking of or injury to a particular Unit and/or improvements an Owner had made within his own Unit shall be apportioned to the particular Unit involved, and (d) the total amount allocated to consequential damages

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and any other takings of injuries shall be apportioned as the Association determines to be equitable in the circumstances. If an allocation of the Condemnation Award is already established in negotiation, judicial decree or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable. Any distribution of the Condemnation Award made pursuant to this subparagraph shall be made by checks payable jointly to the Owners and their first Mortgagees.

(e) Distribution: The Association shall as soon as practicable determine the share of the Condemnation Award to which each Owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable, provided that in the event of a complete taking such distribution shall be made in the same manner as is provided in Paragraph 29(b) of this Declaration.

(f) Mortgagee Notice: The Association shall give timely written notice to each first Mortgagee of the commencement of any condemnation or eminent domain proceedings and shall notify said first Mortgagees in the event of the taking of all or any part of the General Common Elements.

(g) Reorganization. In the event a partial taking results in the taking of a complete Unit, the Owner thereof automatically shall cease to be a member of the Association, and such Owner's interest in the General Common Elements shall thereupon terminate, and the Association, as Attorney-in-Fact for such Owner, may take whatever action is necessary and execute such documents as are necessary to reflect such termination. Thereafter the Association shall reallocate the ownership and assessment ratio determined in accordance with this Declaration according to the same principles employed in this Declaration at its inception and shall submit such reallocation to the Owners of remaining Condominium Units for amendment of this Declaration as provided in Paragraph 19 hereof.

31. Remedies in Event of Default.

31.1 The owner or owners of each condominium unit shall be governed by and shall comply with the provisions of this Condominium Declaration, the Articles of Incorporation and By-Laws of the Association, and the Association's Rules and Regulations, as any of the same are now constituted or as they may be amended from time to time. A default by the owner or owners of any condominium unit shall entitle the Association or the owner or owners of other condominium units to the relief hereinafter described.

31.2 Failure to comply with any of the terms of this Condominium Declaration, Articles of Incorporation, By-Laws of the Association, or the Association's Rules and Regulations, as any of the same are now constituted or as they may be amended from time to time shall be grounds for relief, which may include, without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof, and which relief may be sought by the Association, or, if appropriate, by an aggrieved owner of a condominium unit.

31.3 The owner or owners of each condominium unit shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expenses are not met by the proceeds of insurance carried by the Association. Such liability shall

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include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a condominium unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

31.4 In any proceeding arising because of an alleged default by the owner of a condominium unit, the successful party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the court.

31.5 The failure of Declarant, the Association or of the owner of a condominium unit to enforce any right, provision, covenant or condition which may be granted by this Condominium Declaration or other above-mentioned documents shall not constitute a waiver of the rights of the Declarant or the Association or of the owner of a condominium unit to enforce such right, provision, covenant or condition in the future.

31.6 All rights, remedies and privileges reserved by or granted to Declarant, the Association or the owner or owners of a condominium unit pursuant to any terms, provisions, covenants or conditions of this Condominium Declaration or other above-mentioned documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

32. Registration of Mailing Address. Each Owner shall register his mailing address with the Association, and all notices or demands, except routine statements and notices, intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands or other notices intended to be served upon the Board of Directors of the Association or the Association shall be given by registered or certified mail, postage prepaid, to the following registered address, 201 North Mill Street, Aspen, Colorado 81611 until such address is changed by notice of address change duly recorded in the office of the Clerk and Recorder, County of Pitkin, State of Colorado. Notices or demands to be served on Mortgagees pursuant hereto shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Mortgagee at such address as the Mortgagee may have furnished to the Owners in writing. Unless the Mortgagee so furnishes such address, the Mortgagee shall be entitled to receive none of the notices provided for in this Declaration. Any notice referred to in this Section shall be deemed given when deposited in the United States mail in the form provided for in this Section.

33. Period of Condominium Ownership. The separate condominium estates created by this Declaration and the Condominium Map shall continue until this Declaration is revoked or terminated in the manner and as is provided in this Declaration.

34. General.

(a) Effect of Provisions of Declaration: Each provision of this Declaration, and an agreement, promise, covenant and undertaking to comply with each provision of this Declaration, and any necessary exception or reservation or grant of title, estate, right or interest to effectuate any provision of this Declaration shall:

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(i) be deemed incorporated in each deed or other instrument by which any right, title or interest in the Project or in any Condominium Unit is granted, devised or conveyed, whether or not set forth or referred to in such deed or instrument;

(ii) by virtue of acceptance of any right, title or interest in the Project or in any Condominium Unit by an Owner, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner, and, as a personal covenant, shall be binding on such Owner and such Owner's heirs, personal representatives, successors and assigns and shall be deemed a personal covenant to, with and for the benefit of the Association but not to, with or for the benefit of any other non-aggrieved Owner;

(iii) be deemed a real covenant by Declarant, for itself, its successors and assigns, and also an equitable servitude, running, in each case, as a burden with and upon the title to the Project and each Condominium Unit and, as a real covenant and also as an equitable servitude, shall be deemed a covenant and servitude, shall be deemed a covenant and servitude for the benefit of the Project and each Condominium Unit; and

(iv) be deemed a covenant, obligation and restriction secured by a lien in favor of the Association, burdening and encumbering the title to the Project and each Condominium Unit in favor of the Association.

(b) Protection of Encumbrancer: Unless inconsistent with any of the provisions of this Declaration, no violation or breach of or failure to comply with, any provision of this Declaration and no action to enforce any such provision shall effect, defeat, render invalid or impair the lien of any first Mortgage, or other lien on any Condominium Unit taken in good faith and for value and perfected by recording in the office of the Clerk and Recorder of the County of Pitkin, Colorado, prior to the time of recording in said office of an instrument describing the Condominium Unit and listing the name or names of the Owner or Owners of fee simple title to the Condominium Unit and giving notice of such violation, breach or failure to comply; nor shall such violation, breach, failure to comply or action to enforce affect, defeat, render invalid or impair the title or interest of the holder of any such first Mortgage, or other lien or the title or interest acquired by any purchaser upon foreclosure of any such first Mortgage or other lien or result in any liability, personal or otherwise, of any such holder or purchaser. Any such purchaser at foreclosure shall, however, take subject to this Declaration; provided, however, that violation or breaches of, or failures to comply with, any provisions of this Declaration which occurred prior to the vesting of fee simple title in such purchaser shall not be deemed breaches or violations hereof or failures to comply herewith with respect to such purchaser, his heirs, personal representatives, successors or assigns.

(c) Supplemental to Law: The provisions of this Declaration shall be in addition and supplemental to the Condominium Ownership Act of the State of Colorado and to all other provisions of law.

(d) Numbers and Genders: Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

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(e) Successors and Assigns: This Declaration shall be binding upon and shall inure to the benefit of the Declarant, the Association and each Owner, and the heirs, personal representatives, successors and assigns of each of them.

(f) Severability: Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

(g) Captions: The captions and headings in this Declaration are for convenience only and shall not be considered in construing any provision of this Declaration.

(h) No Waiver: Failure to enforce any provision of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration.

(i) Rule Against Perpetuities: If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of the President of the United States, Ronald Reagan, and the Governor of Colorado, Richard Lamm.

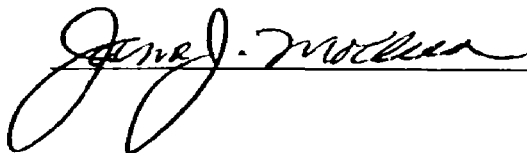
(j) New Additions of General Common Elements and Limited Common Elements: The Declarant does not intend to make any major additions of General or Limited Common Elements, and does not intend any expansion of the Project. If the Association would make any such additions, however, a) each Owner would be responsible for his percentage of any increase in Common Expenses created thereby, b) each Owner would own, as a tenant in common with the other Owners, an undivided interest in the new additions in accordance with the interests set forth on Exhibit B attached hereto, c) each Owner's interest in the existing General and Limited Common Elements would be unaffected by such additions, and d) each Owner's voting powers in the Association would be unaffected by such additions.

(k) General Reservations: Declarant reserves the right to establish easements, reservations, exceptions and exclusions consistent with the condominium ownership of the condominium project and for the best interests of the condominium unit owners and the Association in order to serve the entire condominium project.

IN WITNESS WHEREOF, Declarant has duly executed this Declaration this 1st day of April, 1982.

Declarant:

JAMES J. MOLLICA



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STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)

The foregoing instrument was acknowledged before me
this 15th day of April, 1982, by the Declarant,
JAMES J. MOLLICA.

WITNESS my hand and official seal.

My commission expires: 7/14/82

Kathy V. Baklanov
Notary Public

Address:

P. O. Box 2721
Aspen, CO 81612

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EXHIBIT A

Lots K, L, and M
Block 26
EAST ASPEN ADDITION

and also

Lot in West End Street, also referred to as Lot in West End Street West of said Block 26 in East Aspen Addition in and to the City of Aspen, also referred to as Lot West of Lot K in said Block 26, East Aspen Addition in and to the City of Aspen, described as follows:

"bounded on the North by the Northerly line of Block 26 extended Westerly a distance of 30 feet;"

"bounded on the South by the Southerly line of Block 26 extended Westerly a distance of 30 feet;"

"bounded on the East by the Westerly line of Lot K in said Block 26, being a distance of 100 feet;"

"and bounded on the West by a line 30 feet Westerly of and at all points parallel to the Westerly line of said Lot K in Block 26."

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EXHIBIT B

<u>Unit No.</u>	<u>Percent of Ownership</u>
1	6.25%
2	6.25%
3	6.25%
4	6.25%
5	6.25%
6	6.25%
7	6.25%
8	6.25%
9	6.25%
10	6.25%
11	6.25%
12	6.25%
13	6.25%
14	6.25%
15	6.25%
16	<u>6.25%</u>
TOTAL	<u><u>100.00%</u></u>

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