

CONDOMINIUM DECLARATION

FOR

THE VAIL GOLFCOURSE TOWNHOMES ASSOCIATION

PHASE I

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CONDOMINIUM DECLARATION
FOR
THE VAIL GOLFCOURSE TOWNHOMES ASSOCIATION
PHASE I

KNOW ALL MEN BY THESE PRESENTS, THAT:

WHEREAS, the undersigned owner of the subject real property, hereinafter called DECLARANT, is the owner of that real property situated in the County of Eagle, State of Colorado, more fully described by the Condominium Map and:

LOT 1, SUNBURST FILING #3, A RESUBDIVISION OF
SUNBURST FILING #2, PHASE I

WHEREAS, Declarant desires to establish a condominium project under the Condominium Ownership Act, being Article 33, Title 38, Colorado Revised Statutes 1973, as amended and supplemented; and

WHEREAS, there is constructed on said real property four (4) buildings consisting of fifteen (15) separately designated residential condominium units and other improvements; and

WHEREAS, Declarant desires to and does hereby establish a plan for the ownership in fee simple of the 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, restrictions, uses, limitations and obligations shall be deemed to run with the land, shall be a burden and a benefit to Declarant, their personal representatives, successors, or assigns, and any person or entity acquiring or owning an interest in the real property and improvements, devisees or assigns.

ARTICLE I
DEFINITIONS

The following definitions apply to the development at the time the same is submitted to condominium ownership under the provisions of this Declaration unless the context shall expressly provide otherwise:

1. UNIT - means an individual air space which is contained within the windows, doors and unfinished perimeter walls, floors (or lower most floors, if it is an individual air space unit containing more than one level) and the ceilings (or the upper most ceilings, if it is an individual air space unit containing more than one level) of each unit shown on the Condominium Map to be filed for record, together with all fixtures and improvements therein contained, but not including any of the general common elements, if any, located within the Unit.

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 appurtenant to such unit.

3. GENERAL COMMON ELEMENTS - means and includes the land described above, the structural components of the building; the balconies and parking spaces; and all other parts of such land and the improvements thereon necessary or convenient to its existence, maintenance and safety which are normally and reasonably in common use, including the air above such land (except for the Individual Air Space Units), all of which shall be owned, as tenants in common, by the owners of the separate units, each owner of a unit having an undivided percentage interest in such general common elements as is provided hereinafter.

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.

5. CONDOMINIUM PROJECT - means all of the land and improvements initially and subsequently covered by this Declaration.

6. COMMON EXPENSES - means and includes expenses for maintenance, repair, operation, management and administration; expenses declared common expenses by the provisions of this Declaration and the By-Laws of THE VAIL GOLFCOURSE TOWNHOMES ASSOCIATION, PHASE I and all sums lawfully assessed against the general common elements by the Board of Directors of the Association.

7. ASSOCIATION OF UNIT OWNERS or ASSOCIATION - means THE VAIL GOLFCOURSE TOWNHOMES ASSOCIATION, PHASE I, a Colorado nonprofit corporation, its successors and assigns, the Articles of Incorporation and By-Laws of which shall govern the administration of this condominium property, the members of which shall be all of the owners of the condominium units.

8. BUILDING - means the building improvements containing units as shown on the Map or amendments and supplements thereto.

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.

10. VOTING RIGHTS-FIRST MORTGAGEE - For the purpose of this document, all voting rights attributable to First Mortgagees shall only inure to the benefit of those First Mortgagees considered an institution with assets in excess of \$10,000,000.00.

ARTICLE II CONDOMINIUM MAP

The Map may be filed for record in whole or in parts or sections from time to time, as the stages of construction of the units and other improvements are substantially completed. Each section of the Map filed subsequent to the first or initially filed Map shall be termed a Supplement to such Map and the numerical sequence of such supplements shall be shown thereon. The map or any part or section thereof depicting units shall not be filed for record until the building in which the units are located has been substantially completed in order to permit the location thereof, both horizontally and vertically. Each such Map shall depict and show at least the following:

The legal description of the land and a survey thereof; the location of the building(s); the floor and elevation plans; the location of the units within the building, both horizontally and vertically; the thickness of the common walls between or separating the units; the location of any structural components or supporting elements of a unit located within a building; and the building and unit designations.

The Map shall contain the certificate of a registered Colorado Land surveyor or licensed architect, or both, certifying that the Map substantially depicts the location and the horizontal and vertical measurements of the building, the units, the unit designations, the dimensions of the units, the elevations of the unfinished floors and ceilings as constructed, the building number or symbol, and that such Map was prepared subsequent to substantial completion of the improvements. Each Supplemental Map and/or any amendment shall set forth a like certificate when appropriate. In interpreting the Map the existing physical boundaries of each separate unit as constructed shall be conclusively presumed to be its boundaries. The Association reserves the right to amend the Map, from time to time, to conform the same according to the actual location of any of the constructed improvements, and to establish, vacate and relocate easements, access road easements and on-site parking areas.

ARTICLE III

DIVISION OF PROPERTY INTO CONDOMINIUM UNITS

The real property is hereby divided into fifteen (15) 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 A, 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 A.

ARTICLE IV

LIMITED COMMON ELEMENTS

A portion of the general common elements is reserved for the exclusive use of the individual owners of the respective units, and such areas are referred to as LIMITED COMMON ELEMENTS. The limited common elements so reserved shall be identified on the Map: (Any balcony or balconies which are accessible only from within, associated only with and which adjoin a single unit shall, without further reference thereto, be used in connection with such unit to the exclusion of the use thereof by the other owners of the general common elements, except by invitation.) All of the owners of condominium units in this condominium project shall have a non-exclusive right in common with all of the other owners to use of sidewalks, pathways, roads and streets located within the entire condominium project, if any, unless designated on the Map as a limited common element. No reference thereto, whether such limited common elements are exclusive or non-exclusive, need be made in any deed, instrument of conveyance, or other instrument, and reference is made to the provision of Article VI of this Declaration.

ARTICLE V

INSEPARABILITY OF A CONDOMINIUM UNIT

Each unit, the appurtenant undivided interest in the general common elements and the appurtenant limited common elements, shall together comprise one condominium unit, shall be inseparable and may be conveyed, leased, devised or encumbered only as a condominium unit.

ARTICLE VI

METHOD OF DESCRIPTION

Every contract for the sale of a condominium unit and every other instrument affecting title to a condominium unit may describe that condominium unit by the unit number and building designation shown on the Condominium

Map and subject to this Declaration as the same may be supplemented or amended from time to time, as they appear in the records of the County Clerk and Recorder of Eagle County, Colorado. Such description will be construed to describe the unit, together with the appurtenant undivided interest in the common elements, and to incorporate all the rights incident to ownership of a condominium unit and all the limitations on such ownership as described in this Declaration.

ARTICLE VII

SEPARATE ASSESSMENT AND TAXATION NOTICE TO ASSESSOR

Declarant shall give written notice to the Assessor of the County of Eagle, Colorado, of the creation of condominium ownership in 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 in the general common elements.

ARTICLE VIII

OWNERSHIP - TITLE

A condominium unit may be held and owned by more than one person as joint tenants or as tenants in common, or by entirety or in any real property tenancy relationship recognized under the Laws of the State of Colorado.

ARTICLE IX

MEMBERSHIP, VOTING, PROXIES AND QUORUM

Section A: Classes of Membership and Voting Rights

There shall be two classes of Association membership designated Class A and Class B corresponding to the type of Owner for each Unit as hereinafter set forth. The rights of members of each class shall differ only as to the voting rights set forth as follows:

CLASS A: Class A members shall be all Owners, with the exception of the Declarant and each Unit owned by such Class A members shall have allocated to it a voting interest equivalent to that undivided percentage ownership in the Common Elements allotted to each Unit, as set forth in Exhibit A of the Condominium Declaration.

CLASS B: The Class B member shall be the Declarant, and each Unit owned by such Class B member shall have allocated to it a voting interest equivalent to the product of the undivided percentage ownership in the Common Elements allotted to that Unit, as set forth in Exhibit A of the Condominium Declaration, multiplied by a factor of 6.5 (which product may be referred to herein as a "weighted voting interest"). The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

1) when the aggregate undivided percentage ownership in the Common Elements allotted to Units owned by Declarant, as those percentages are set forth in Exhibit A of the Condominium Declaration, becomes less than 13.2%; or

2) on December 31, 1980.

All members shall be entitled to vote on all matters, as provided above or as otherwise provided in the Articles of Incorporation, the By-Laws or these Declarations. Cumulative voting is prohibited.

Section B: Definition of Weighted Percentage Vote

Whenever the Articles of Incorporation, the By-Laws or these Declarations provide that an issue shall be determined by a Weighted Percentage Vote, or when no other method of calculating the vote required for approval of a specified issue is provided by statute or by the Declaration, the Articles of Incorporation or the By-Laws, the total number of authorized votes and the Weighted Percentage Vote shall be calculated according to the voting interest allocated to the Class A members and the Weighted Voting Interest allocated to the Class B members, as provided in Section A of this Article. A majority Weighted Percentage Vote means a Weighted Percentage Vote greater than 50%.

Section C: Proxies

At all meetings of members votes may be cast in person or by proxy, but no proxy shall be valid after eleven months from the date of its execution unless otherwise provided in the proxy. All proxies shall be in writing and must be filed with the Secretary at or before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his unit.

Section D: Designation of Voting Representative-Proxy

If title to a Unit is held by more than one individual, by a firm, corporation, partnership, association, or other legal entity, or any combination thereof, a proxy must be executed and filed with the Association appointing and authorizing one person or alternate persons to attend all annual and special meetings of Association members and thereat to cast the voting interest allocated to that Unit as provided in the Declaration. Such proxy shall be effective and remain in force unless voluntarily revoked, amended, or sooner terminated by operation of law; provided, however, that within thirty days after such revocation, amendment or termination, the Owner or Owners shall reappoint and authorize one person or alternate persons to attend all annual and special meetings as provided in this Section.

Section E: Quorum

Except as otherwise provided in these Declarations, the presence in person or by proxy of Association members possessing a sufficient voting interest to constitute a Weighted Percentage Vote of 75% of the voting interests of all members shall constitute a quorum, and such members present in person or by proxy shall constitute the members entitled to vote upon any issue presented at a meeting at which a quorum is present. A majority Weighted Percentage Vote of such members present shall be sufficient to make decisions binding on all Owners unless a different number or method of voting is expressly required by statute or by the Declaration, Articles of Incorporation or By-Laws.

75% for
quorum
51% vote
to carry

ARTICLE X
OWNERSHIP OF COMMON ELEMENTS
THE USE OF GENERAL AND LIMITED COMMON ELEMENTS

The general common elements shall be, owned in common by all of the owners of the units and shall remain undivided, and no owner shall bring any action for partition or division of the general 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.

ARTICLE XI
USE AND OCCUPANCY

Any lease in excess of sixty (60) days is required to be in writing and the Lessee thereunder is required to conform with all of the terms and provisions of this Declaration and the Articles of Incorporation and By-Laws of the Condominium Association.

ARTICLE XII
EASEMENTS FOR ENCROACHMENTS

If any portion of the general common elements encroaches upon a unit or units, 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, as shown on the Map, encroaches upon the general common elements, or upon an adjoining unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event that any one or more of the units or buildings or other improvements comprising part of the general common elements are partially or totally destroyed and are then rebuilt or reconstructed in substantially the same location and as a result of such rebuilding any portion thereof shall encroach as provided in the preceding sentence a valid easement for such encroachment shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the general common elements or on the units.

ARTICLE XIII
TERMINATION OF MECHANIC'S LIEN RIGHTS AND INDEMNIFICATION

Subsequent to the completion of the improvements described on the Map, no labor performed or materials furnished or incorporated in a unit with the consent or at the request of the unit owner or his agent or his contractor or subcontractor shall be the basis for filing of a lien against the unit or any other unit owner not expressly consenting to or requesting the same, or against the general common elements. Each owner shall indemnify and hold harmless each of the other owners from and against all liability arising from the claim of any lien against the unit of any other owner or against the general common elements for construction performed or for labor, materials, services or other products incorporated in the owner's unit at such owner's request. The provisions herein contained are subject to the rights of the Managing Agent or Board of Directors of the Association as is set forth in Article XIV. Notwithstanding the foregoing any mortgagee of a condominium unit who shall become an owner of a condominium unit pursuant to lawful foreclosure sale or the taking of a deed in lieu of foreclosure shall not be under any obligation to indemnify and hold harmless any other owner against liability for claims arising prior to the date such mortgagee becomes an owner.

ARTICLE XIV
ADMINISTRATION AND MANAGEMENT
MANAGING AGENT

The Administration and management of this condominium property shall be governed by the Articles of Incorporation and the By-Laws of the Association. An owner of a condominium unit, upon becoming an owner, shall be a member of the Association and shall remain a member for the period of his ownership. The Association shall be initially governed by a Board of Directors as is provided in the By-Laws of the Association. The Association may delegate by written agreement any of its duties, powers and functions to any person or firm to act as Managing Agent at an agreed compensation. Any agreement for professional management of the condominium project or other contract providing for services by the developer shall provide that same may be terminated by either party to said contract, with or without cause, or the payment of termination fee on 90 days or less written notice and that said contract shall not be for a term in excess of three (3) years.

The Association shall be granted all of the powers necessary to govern, manage, maintain, repair, administer and regulate the project and to perform all of the duties required of it. Notwithstanding the above, unless at least seventy-five percent (75%) of the first mortgagees of Condominium units (based upon one vote for each first mortgage owned or held) have given their prior written approval, the Association shall not be empowered or entitled to:

- a) by act or omission, seek to abandon or terminate the condominium regime;
- b) partition or subdivide any Condominium Unit;
- c) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common elements;
- d) use hazard insurance proceeds for the loss to the improvements for other than repair, replacement or reconstruction of such improvements;
- e) change the pro rata interest or obligations of any individual unit for the purpose of:
 - (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or
 - (ii) determining the pro rata share of ownership of each condominium unit in the common elements.

The Association shall grant to each first mortgagee of a Condominium Unit the right to examine the books and records of the Association at any reasonable time. Further, the Association shall notify each first mortgagee of any Condominium Unit of any proposed amendment in the Association's Managing Agent at least ten (10) days prior to the effective date of such amendment or change.

ARTICLE XV
CERTIFICATE OF IDENTITY

There may 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.

ARTICLE XVI
RESERVATION FOR ACCESS
MAINTENANCE, REPAIR AND EMERGENCIES

The owners shall have the irrevocable right, to be exercised by the Managing Agent or Board of Directors of the Association, to have access to each unit from time to time during reasonable hours under the particular circumstances as may be necessary for the maintenance, repair or replacement of any of the general common elements therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the general common elements or to another unit or units. Damage to the interior or any part of a unit or units 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 shall be a common expense of all of the other owners; provided, however, that if such damage is the result of the misuse or negligence of a unit owner, then such owner shall be responsible and liable for all such damage. All damaged improvements shall be restored to substantially the same condition of such improvements prior to damage. All maintenance, repairs and replacement as to the general common elements, whether located inside or outside of units (unless necessitated by the negligence or misuse of a unit owner, in which case such expense shall be charged to such unit owner), shall be the common expense of all the owners.

ARTICLE XVII
MAINTENANCE RESPONSIBILITY OF
UNIT, BALCONIES, PARKING AND STORAGE AREAS

A. OWNERS RESPONSIBILITY - 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) 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) which serve one or more other units except as 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 finished or other materials removed with similar or other types or kinds of materials. An owner shall maintain and keep in repair the interior of his own unit, including the fixtures thereof. All fixtures and equipment installed within the unit commencing at a point where the utilities enter the unit shall be maintained and kept in repair by the owner thereof. An owner shall do no act nor 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

*Incl. Doors
+ Windows*

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 Article XVII shall be borne by 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 limited common elements appurtenant to his unit in a well-repaired and maintained, clean and sanitary condition; and free and clear of snow, ice, dirt, debris, and any accumulation of water, at his own expense.

*Limited
Common Area*

B. ASSOCIATION'S RESPONSIBILITY - The Association shall have the duty of maintaining and repairing all of the common elements within the project and the cost of said maintenance and repair shall be a common expense of all of the owners. The Association shall not need the prior approval of its members to cause such maintenance or repairs to be accomplished, notwithstanding the cost thereof.

The Association shall provide to the Owners the following services which shall be paid for out of the common expense assessment, to-wit:

- a) maintenance of the common elements;
- b) administration and management of the project;
- c) providing common lighting;
- d) obtaining the insurance required in Article XXII hereof;
- e) enforcement of the covenants, conditions and restrictions set forth in the Declaration, enforcement of the Association's rules and regulations, and collection of all obligations owed the Association by the owner's;
- f) acting as attorney-in-fact in the event of damage or destruction as provided for in Article XXXI hereof; and
- g) performing all other acts required by this Declaration, or the Articles of Incorporation and By-Laws of the Association.

Notwithstanding the above, the Association reserves the right to hire one or more persons or entities including a Managing Agent, contractors, and employees to perform such services.

Any agreement for professional management of the condominium project or other contract providing for services by the developer shall provide that same may be terminated by either party to said contract, with or without cause, or the payment of termination fee on ninety (90) days or less written notice, in that said contract shall not be for a term in excess of three (3) years.

ARTICLE XVIII
COMPLIANCE WITH PROVISIONS OF
DECLARATIONS, BY-LAWS OF THE ASSOCIATION

Each owner shall comply strictly with the provisions of this Declaration, the 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 comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief or both, and for reimbursement of all costs and attorneys fees incurred in connection therewith, which action shall be maintainable by the Managing Agent or Board of Directors in the name of the Association on behalf of the owners or, in a proper case by an aggrieved owner. The general common elements shall be owned in common by all of the owners of units and shall remain undivided. By the acceptance of his deed or other instrument of conveyance or assignment, each owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the general common elements and each owner specifically agrees not to institute any action therefor. Further, such owner agrees that Article XVIII may be plead as bar to the maintenance of such action. A violation of this provision shall entitle the Association to personally collect, jointly and severally, from the parties violating the same, the actual attorney's fees, costs and other damages the Association incurs in connection therewith. Further, all owners and the Association covenant that they shall neither by act nor by omission seek to abandon, subdivide, encumber, sell or transfer the general common elements without first obtaining the written consent of at least seventy-five percent (75%) of the first mortgagees of the individual condominium units. Each such first mortgagee shall have one vote for each mortgage owned by it. Any action without the written consent of said mortgagee shall be null and void.

ARTICLE XIX
REVOCATION OR AMENDMENT TO DECLARATION

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 of the condominium units unanimously consent and agree to such revocation by instrument(s) duly recorded. This Declaration shall not be amended unless the owners representing an aggregate ownership interest of seventy-five percent (75%) or more, of the general common elements, unless a different percentage for the amendment of a specific provision hereof is herein provided, in which case that provision hereof is herein provided, in which case that provision shall govern 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.

ARTICLE XX
ADDITIONS, ALTERATIONS AND IMPROVEMENTS OF
GENERAL AND LIMITED COMMON ELEMENTS

There shall be no additions, alterations or improvements by the Board of Directors or the Managing Agent of or to the general and limited common elements requiring an expenditure in excess of Five Hundred Dollars (\$500.00) in any one calendar year without prior approval of 75% of the owners in writing or as reflected in the minutes of a regular or special meeting of the owners. Such limitation shall not be applicable to the replacement, repair, maintenance or obsolescence of any general common element or common property. Any individual unit owner shall do no alterations, additions, or improvements to the general common elements or the limited common elements without the approval of all of the owners in writing or as reflected in the minutes of a regular or special meeting of the owners.

*Ind.
Repair or Maint.*

The cost of any additions, alterations or improvements to the general and limited common elements undertaken by the Board of Directors shall be assessed as common expenses. Any such additions, alterations or improvements shall be owned by the unit owners in the same proportion as their ownership interest in existing general and limited common elements and shall not affect any unit owner in reference to his voting power in the Association.

ARTICLE XXI
ASSESSMENT FOR COMMON EXPENSES

All owners shall be obligated to pay the assessments, either estimated or actual, imposed by the Board of Directors of the Association to meet the common expenses. The assessments shall be made according to each owner's percentage interest in the general common elements as is set forth in Exhibit A. Assessments for the estimated common expenses shall be made at least quarterly, preferably monthly, and shall be due immediately upon receipt. The Managing Agent or Board of Directors shall prepare and deliver or mail to each owner a statement for the estimated or actual common expenses.

In the event the ownership of a condominium unit by grant from the Declarant commences on a day other than the first of the month, the assessment for that month shall be prorated.

The assessments made for common expenses shall be based upon the cash requirements deemed to be such aggregate sum as the Managing Agent, or if there is no Managing Agent, then the Board of Directors of the Association shall from time to time determine what is necessary to be paid by all of the condominium unit owners to provide for the payment of all estimated expenses growing out of or connected with the maintenance, repair, operation, additions, alterations and improvements of and to the general common elements, which sum may include, but shall not be limited to, expenses of management; taxes and special assessments until separately assessed; premiums for fire insurance with extended coverage and vandalism and malicious mischief with endorsements attached, issued in the amount of the maximum replacement value of all of the condominium units (including all fixtures; interior walls and partitions; decorated and finished surfaces of perimeter walls, floors and ceilings; doors, windows and other elements or materials comprising a part of the units) casualty and public liability and other insurance premiums; landscaping and care of grounds; common lighting and heating; repairs and renovations; legal and accounting fees; expenses and liabilities incurred by the Managing Agent and Board of Directors on behalf

of the unit owners under or by reason of this Declaration and the By-Laws of the Association; for any deficit arising or any deficit remaining from a previous period; the creation of a reasonable contingency, reserves, working capital, and sinking funds as well as other costs and expenses relating to the general common elements. The omission or failure of the Board of Directors to fix the assessment for any period shall not be deemed a waiver, modification or a release of the owners from their obligation to pay the same.

The Association shall be obligated to establish a reserve fund for the maintenance, repair and replacement of those general common elements that must be replaced periodically and such reserve fund shall be funded through the monthly payments of the common expenses and not to be extraordinary special assessments.

ARTICLE XXII INSURANCE

The Board of Directors of the Association, shall obtain and maintain at all times, to the extent obtainable, policies involving standard premium rates, established by the Colorado Insurance Commissioner, and written with companies licensed to do business in Colorado and having a Best's Insurance Report rating of AAA or better, covering the risks set forth below. The Board of Directors of the Association shall not obtain any policy where:

- A. under the terms of the insurance company's charter, by-laws, or policy contributions or assessments may be made against the mortgagor or mortgagee's designee; or
- B. by the terms of carrier's charter, by-laws or policy, loss payments are contingent upon action by the company's Board of Directors, policyholders or members; or
- C. the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or the mortgagor from collecting insurance proceeds. The types of coverages to be obtained and risks to be covered are as follows, to wit:

1) Fire insurance with extended coverage and all risk endorsements, which endorsements shall include endorsements for vandalism, malicious mischief, boiler explosion and machinery, if appropriate. Said casualty insurance shall insure the entire condominium project and any property, the nature of which is a general common element (including all of the Units, fixtures therein initially installed by the Declarant but not including furniture, furnishings or other personal property supplied by or installed by Unit Owners) 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 mortgagee of a Condominium Unit, which shall provide that the loss, if any, thereunder, shall be payable to the Association, for the use and benefit of mortgagees as their interest may appear.

2) If the condominium 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 condominium 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 mortgages on the Condominium Units comprising the condominium project.

3) Public liability and property damage insurance in such limits as the Board of Directors of the Association may from time to time determine, but not in an amount less than \$300,000.00 per injury, per person, per occurrence and umbrella liability limits of \$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. Said policy shall also contain a "severability of interest endorsement".

4) Workmen's Compensation and employer's liability insurance and all other similar insurance with respect to employees 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 and any personal property of the Association located thereon.

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 a Condominium Unit Owner and shall provide that such policies may not be cancelled or modified without at least ten (10) days prior written notice to all of the insureds, including mortgagees. Duplicate originals of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered to all mortgagees at least ten (10) days prior to expiration of the then current policies. The insurance shall be carried in blanket form naming the Association as the insured, as attorney-in-fact for all of the Condominium Unit Owners, which policy or policies shall identify the interest of each Condominium Unit Owner (owner's name and Unit number designation) and first mortgagee.

Prior to obtaining any policy of fire insurance or renewal thereof, the Board of Directors of the Association shall obtain an appraisal from a duly qualified real estate or insurance appraiser, which appraiser shall reasonably estimate the full replacement value of the entire condominium 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. But such policy shall provide for an agreed amount replacement coverage. Determination of maximum replacement value shall be made annually by one or more written appraisals to be furnished by a person knowledgeable of replacement costs, and each mortgagee 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.

Unit owners may carry other insurance for their benefit and at their expense, provided that all such policies shall contain waivers of subrogation, and provided further that the liability of the carriers issuing insurance obtained by the Board of Directors shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

Insurance coverage on furnishings, including carpet, draperies, oven, range, refrigerator, wallpaper, disposal and other items of person or other property belonging to an owner and public liability coverage within each Unit shall be the sole and direct responsibility of the Unit Owner thereof, and the Board of Directors the Association and/or the Managing Agent shall have no responsibility therefor.

ARTICLE XXIII

ASSESSMENTS

A. COVENANT OF PERSONAL OBLIGATION OF ASSESSMENTS

Every Owner, by acceptance of the deed or other instrument of transfer of his Unit (whether or not it shall be so expressed in such deed or other instrument of transfer), is deemed to personally covenant and agree, jointly and severally, with every other Owner and with the Association and hereby does so covenant and agree, to pay to the Association the:

- (1) annual assessments,
- (2) special assessments, and
- (3) default assessments applicable to his Unit;

such assessments to be established and collected as hereinafter provided.

No Owner may waive or otherwise escape personal liability for the payment of the assessments provided for herein by nonuse of the Common Elements or the facilities contained therein or by abandonment or leasing of his Unit. In addition to the foregoing, every Owner shall also have the obligation to pay the estimated prorated amount for hazard insurance premiums applicable to his Unit, real property ad valorem taxes, and special assessments imposed by Colorado governmental subdivisions applicable to his Unit, as well as all charges for telephone, electricity, gas, or other utilities applicable to his Unit. Every Owner of a Unit shall have the obligation to pay all amounts payable by such Owner to the Association pursuant to the provisions of the Articles of Incorporation, By-Laws or these Declarations.

B. PURPOSE OF ASSESSMENTS

The assessments levied by the Association shall be used for the purpose of promoting the health, safety, convenience, and general welfare of the Owners, including the improvement and maintenance of the Land and of the services and facilities located thereon. Proper uses of the assessments levied by the Association shall include, but are not limited to, the expenditures of funds for taxes, fees, expenses, charges, levies, premiums, expenditures, or other costs of the Association for:

- (1) Repairing, replacing and maintaining the Common Elements;
- (2) Installing, maintaining and repairing roads and underground utilities upon, across, over, and under any part of the Condominium Project and maintaining and repairing the roads and driveways across the Property which provide access to the Condominium Project;
- (3) Furnishing garbage and trash pickup and water and sewer services to the Condominium Project;
- (4) Providing horticultural services to the Condominium Project, such as mowing grass, caring for the grounds, the sprinkling system, walks and pathways and landscaping the trees, shrubs and grass;
- (5) Obtaining and maintaining insurance in accordance with the provisions of Article XXII hereof;
- (6) Painting, repairing, replacing and maintaining roofs, gutters, downspouts, exterior building surfaces, and other portions of the Common Elements;
- (7) Establishing and maintaining reserves for repairs, maintenance, taxes, capital improvements and other purposes;
- (8) Carrying out all other powers, rights and duties of the Association; and
- (9) Generally for any other purposes and uses that the Association shall determine to be necessary to meet the primary purposes of the Association.

C. ASSESSMENT YEARS

The first assessment year for the levying of the Association's annual assessments shall commence upon the recording of this Declaration in the office of the Clerk and Recorder of Eagle County, Colorado, and shall continue thereafter until the following 31st of December. Subsequent annual assessment years shall thereafter commence on the first day of January and continue until the following 31st day of December.

D. AMOUNT OF TOTAL ANNUAL ASSESSMENTS

The total annual assessments against all Units shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such assessment year, which estimates may include, among other things:

- (1) Expenses of management;
- (2) Taxes and special assessments (until the Units are separately assessed as provided in these Declarations);
- (3) Premiums for all insurance which the Association is required or permitted to maintain as provided in Article XXII hereof;
- (4) Common lighting, heating, and other utility charges, water charges, trash collection, sewer and fire detection and alarm service charges;
- (5) Repairs, maintenance and snow removal;
- (6) Wages for Association employees;
- (7) Legal and accounting fees;
- (8) Any deficit remaining from a previous assessment year;
- (9) The creation of reasonable contingency reserves, surpluses, and sinking funds; and
- (10) Any other costs, expenses, and fees, which may be incurred or may reasonably be expected to be incurred by the Association for the benefit of the Owners under or by reason of this Declaration.

E. APPORTIONMENT OF ANNUAL ASSESSMENTS

The Association's total annual assessment for an assessment year shall be in the proportions set forth in Exhibit A to the respective undivided interests in the Common Elements appurtenant thereto as shown in Exhibit A attached hereto, and the Owner of each Unit shall be personally liable for each such assessment which is assessed against his Unit, and in the case of multiple parties holding ownership interests in a Unit, each such party shall be jointly and severally liable personally for each such assessment. The total annual assessment shall be apportioned among all Units as hereinabove provided in this Section E and shall not be apportioned between General Common Elements and Limited Common Elements.

F. DETERMINATION OF AMOUNT OF ANNUAL ASSESSMENTS

The Board of Directors shall determine, levy and assess the Association's annual assessments, which determination, levying, and assessing may be made by the Board without the vote of the members of the Association.

G. SPECIAL ASSESSMENTS

In addition to the annual assessments authorized above, the Association may at any time and from time to time determine, levy and assess in any assessment year, which determination, levying and assessing may be made by the Board of Directors with or without the vote of the members of the Association, a special assessment applicable to that particular assessment year (and for any such longer period as the Board may determine) for the purpose of defraying,

in whole or in part, the unbudgeted costs, fees, and expenses of any construction, reconstruction, repair, demolishing, replacement, or maintenance of the Condominium Project or of any facilities located thereon, specifically including any fixtures and personal property related thereto. Any amounts determined, levied and assessed pursuant hereto shall be assessed to the Units in proportion to the respective undivided interests in the Common Elements appurtenant thereto as shown in Exhibit A attached hereto; provided, however, that all the Owners of a particular Unit shall be jointly and severally liable to the Association for the payment of all assessments against their particular Unit. Notice in writing of the amount of such special assessment per Unit and of the time for payment thereof shall be given to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given. In the event that any of the special assessments levied by the Association pursuant to this Section G shall be used for the construction of the Condominium Project or of any facilities located thereon and if the total amount of special assessments levied for such construction shall exceed \$5,000.00 (i.e., the total amount of such special assessments for all Units as an aggregate, and NOT \$5,000.00 per Unit), then the use of special assessments for such construction shall require the approval of Owners of Units to which the undivided percentage interest in the Common Elements, as those interests are set forth in Exhibit A hereto, allocated to such Units is at least seventy-five percent (75%), and all of the First Mortgagees of at least seventy-five percent (75%) of the mortgaged Units. The use of assessments, pursuant to this Section G, for construction on any part of the Condominium Project or facilities thereon shall not apply to any construction by Declarant as a part of its development of the Condominium Project.

H. DUE DATES FOR ASSESSMENT PAYMENTS

Unless otherwise determined by the Association, the annual assessments, and any special assessments which are to be paid in monthly installments, shall be paid monthly in advance and shall be due and payable to the Association at its office, or as the Association may otherwise direct in any Management Agreement, without notice (except for the notices required by Sections F and G hereof), on the first day of each month. 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 in the payment of the assessment, the Unit Owner shall be obligated to pay interest at the rate of eighteen percent (18%) per annum on the amount of the assessment from due date thereof, together with all expenses, including attorney's 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 without foreclosing or waiving the lien securing same. An Owner's monthly assessment shall be prorated if the ownership of a Unit commences or terminates on a day other than the first day or last day, respectively, of a month. If the First Mortgagee on any Condominium Unit requires that the Owners thereof make monthly payments into escrow with the First Mortgagee for the estimated hazard insurance premiums and/or general property taxes applicable to such Unit, then such Owners may make such monthly payments into such escrow reserves, rather than making payment of the same to the Association.

I. EXEMPTIONS

Subject to the following sentence of this Section I, a Unit owned by the Declarant shall be exempt from the payment of all annual and special assessments (including monthly installments thereof) until such time as the Unit is conveyed by the Declarant to the first Owners thereof. If the

annual and special assessments levied by the Association and the payments to the working capital account received by the Association, as set forth in Article XXIV hereof, shall not be sufficient in amount to allow the Association to reasonably maintain the Common Elements in a good, clean, attractive and sanitary condition, order, and repair, then Declarant shall be responsible for the payment of such additional amount or amounts as may be necessary to so maintain the Common Elements; provided, however, that the foregoing shall not be interpreted to require Declarant to establish, or to pay over to the Association to establish, reserves or reserve accounts for such maintenance of the Common Elements; provided further, however, that the foregoing covenant of Declarant to be responsible for the payment of such additional amount or amounts shall automatically terminate, expire, and become null and void at such time as Declarant shall have conveyed Units to which seventy-five percent (75%) of the undivided interest in the Common Element, as those interests are set forth in Exhibit A hereto, have been allocated to the first Owners on December 31, 1980, whichever shall first occur, and Declarant shall thereafter be assessed in the same manner as other Owners; and provided further that any excess amount of funds remaining after performance of the maintenance or repair work for which Declarant was required to contribute funds in lieu of assessments pursuant to this Section I shall be immediately refunded to Declarant and no such excess amount shall be credited in a pro rata manner against the annual or special assessments to Owners other than Declarant until Declarant shall have first recovered the entire amount paid by Declarant in lieu of assessments pursuant to this Section I.

J. LIEN FOR ASSESSMENTS

The annual and special assessments (including monthly installments thereof) provided for in this Article XXIII and any and all default assessments arising under the provisions of this Declaration (together with any and all interest, costs, late charges, expenses and reasonable attorney's fees which may arise under the provisions of Section K hereof), shall be burdens running with, and a perpetual lien in favor of the Association upon, the specific Unit to which such assessments apply. To evidence such lien upon a specific Unit, the Association shall prepare a written lien notice setting forth the description of the Unit, the amount of assessments thereon which are unpaid as of the date of such lien notice, the name of the Owner or Owners thereof, and any and all other information that the Association may deem proper. The lien notice shall be signed by a member of the Board of Directors or by an officer of the Association or by the Managing Agent or any officer or employee of the Managing Agent performing management services, and shall be recorded in the office of the Clerk and Recorder of Eagle County, Colorado. Any such lien notice shall not constitute a condition precedent nor delay the attachment of the lien but such lien is a perpetual lien upon the Unit and attaches without notice at the beginning of the first day of any period for which any assessment is levied or assessed.

K. EFFECT OF NONPAYMENT OF ASSESSMENTS

If any annual or special assessment (or any monthly installment thereof) is not fully paid within fifteen (15) days after the same becomes due and payable, or if any default assessment shall arise under the provisions of this Declaration, then in any of such events and as often as the same may happen, interest shall accrue at the rate of eighteen percent (18%) per annum from the due date on any amount thereof which was not paid within such fifteen (15) day period or on the amount of assessment in default, whichever shall be applicable, and the Association may thereafter bring an action at law or in equity, or both, against any Owner personally obligated to pay the same and may also proceed to foreclose its lien

against the particular Unit in the manner and form provided by Colorado law for foreclosure of real estate mortgages in and through the courts. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid assessments (or any monthly installment thereof) may be commenced and pursued by the Association without foreclosing, or, in any way, waiving the Association's lien therefor. In the event that any such assessment (or monthly installment thereof) is not fully paid when due and the Association shall commence such an action (or shall counterclaim or cross-claim for such relief in any action) against any Owner personally obligated to pay the same or shall proceed to foreclose its lien against the particular Unit, then all unpaid monthly installments of annual and special assessments and all default assessments (including any such installments or assessments arising during the proceedings of such action or foreclosure proceedings), any late charges under Section H hereof, any accrued interest under this Section K, the Association's costs, expenses, and reasonable attorney's fees incurred for any such action and/or foreclosure proceedings shall be taxed by the court as part of the costs of any such action or foreclosure proceedings and shall be recoverable by the Association from any Owner personally obligated to pay the same and from the proceeds from the foreclosure sale of the particular Unit in satisfaction of the Association's lien. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent assessments (or monthly installments thereof) which are not fully paid when due or for any subsequent default assessments. The Association shall have the power and right to bid in or purchase any Unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the Association votes appurtenant to ownership thereof, convey, or otherwise deal with the same.

L. SUCCESSOR'S LIABILITY FOR ASSESSMENTS

Notwithstanding the personal obligation of each Owner of a Unit to pay all assessments thereon and notwithstanding the Association's perpetual lien upon a Unit for such assessments, all successors in interest to the fee simple title of a Unit shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid assessments, interest, late charges, costs, expenses, and attorney's fees against such Unit, without prejudice to any such successor's right to recover from any prior Owner any amounts paid thereon by such successor; provided, however, that a successor in interest to the fee simple title of a Unit shall be entitled to rely upon the existence and status, or absence thereof, of unpaid assessments, interest, late charges, costs, expenses, and attorney's fees as shown upon any certificate issued by or on behalf of the Association to such named successor in interest pursuant to the provisions of Section N hereof. The foregoing liability of successors in interest for all unpaid assessments, interest, late charges, costs, expenses, and attorney's fees against his Unit shall not apply to any First Mortgagee or First Mortgagee's nominee who shall, in good faith and not for the primary purpose of circumventing this Section L, acquire the Unit through a deed in lieu of foreclosure proceedings.

M. SUBORDINATION OF ASSOCIATION'S LIEN FOR ASSESSMENTS

The Association's perpetual lien on a Unit for assessments shall be superior to the homestead exemption provided by Part 2, Article 41, Title 38, C.R.S. 1973, as amended, and to all other liens and encumbrances except:

- (1) Real property ad valorem taxes and special assessment liens duly imposed by a Colorado governmental subdivision;

(2) The lien of any First Mortgage or the lien of any executory land sales contract, including any and all advances made by the First Mortgagee or executory land sales contract seller and notwithstanding that any of such advances may have been made subsequent to the date of the attachment of the Association's liens.

With respect to the foregoing subpart M of this Article XXIII, any First Mortgagee who comes into possession of a Unit by virtue of foreclosing the First Mortgage or by virtue of a deed or assignment in lieu of such a foreclosure, or any purchaser at a foreclosure sale of the First Mortgage, will take the Unit free of any claims for unpaid Association assessments, interest, late charges, costs, expenses, and attorney's fees against the Unit which accrue prior to the time such First Mortgagee or purchaser comes into possession of the Unit, except for claims for a pro rata share of such assessments resulting from a pro rata reallocation of such assessments to all Units (including the Unit which is encumbered by the First Mortgage). All other persons obtaining a lien or encumbrance on any Unit after the recording of this Declaration shall be deemed to consent that any such lien or encumbrance shall be subordinate and inferior to the Association's future liens for assessments, interest, late charges, costs, expenses, and attorney's fees, as provided in this Article XXIII, whether or not such consent be specifically set forth in the instrument creating any such lien or encumbrance. Sale or other transfer of any Unit shall not affect the Association's lien for assessments, interest, late charges, costs, expenses, and attorney's fees due and owing at the time of such sale or other transfer and shall not affect the personal liability of each Owner who shall have been responsible for the payment thereof.

Upon request of a Mortgagee, the Association shall report to the Mortgagee of a 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.

First Mortgagees shall be given written notice by the Association of ANY default by an Owner of a Unit upon which such default has remained uncured for sixty (60) days.

N. MORTGAGEES MAY PAY ASSESSMENTS AND CURE DEFAULTS

If any assessment, or monthly installments thereof, on any Unit shall not be paid by the Owner thereof within thirty (30) days after the same is due, or if a default by any Owner of any provision of this Declaration shall not be cured within thirty (30) days after written notice thereof is given to such Owner, then the Association shall thereafter send subject to the provisions of Article XXXIV of this Declaration, a notice thereof to any First Mortgagee of said Unit, and may (but shall not be required to) send a notice thereof to any other Mortgagee of said Unit. Any Mortgagee may (but shall not be required to) pay such assessment or monthly installments thereof, together with any other amounts secured by the Association's lien created by this Article XXIII, and may (but shall not be required to) cure any such default.

O. LIENS

Except for annual, special and default assessment liens as provided in this Declaration, mechanic's liens, tax liens, and judgment liens arising by operation of law and liens arising under Mortgages, there shall be no other liens obtainable against the Common Elements or any interest therein of any Unit.

ARTICLE XXIV

ASSOCIATION

A. PROMULGATION OF RULES AND REGULATIONS

The Association may make and amend reasonable rules and regulations governing the use of the Units and the Common Elements, which rules and regulations shall be substantially consistent with the rights and duties established in this Declaration. The Association or any aggrieved Owner may take judicial action against any Owner to enforce compliance with such rules and regulations and with the provisions of this Declaration and the Articles of Incorporation and By-Laws of the Association to obtain damages for noncompliance or for injunctive relief, or both, all to the extent permitted by law.

B. PAYMENTS TO WORKING CAPITAL ACCOUNT

In order to provide the Association with adequate working capital funds, the Association shall receive upon the initial sale of each Unit an amount as specified in these Declarations. This payment to the Association for working capital funds shall be in addition to any monthly installments of the annual assessment which may be due at the time of such sale or leasing. Said amount of working capital fund contribution shall be \$300.00.

ARTICLE XXV

LIABILITY FOR COMMON EXPENSE UPON THE TRANSFER OF CONDOMINIUM UNIT

Upon payment to the Managing Agent, or if there is no Managing Agent, then to the Association of a reasonable fee not to exceed Twenty-Five Dollars (\$25.00), 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 monthly assessment and the date that such assessment becomes due, credit for any advanced payments of 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 (10) days, all unpaid common expenses which become due prior to the date of making such request shall be subordinate to the rights of the person requesting such statement. The grantee of a condominium unit, except for any first mortgagee who comes into possession of a condominium unit pursuant to foreclosure of its mortgage or by the taking of a deed in lieu thereof, shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for the unpaid common assessments 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 not to exceed Twenty-Five Dollars (\$25.00), 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 from the Association setting forth the amount of the unpaid assessments, if any, with respect to the subject unit, the amount of the current monthly assessment, the date that such assessment becomes due, and credits 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 statement shall be complied with within ten (10) 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. The provisions set forth in this paragraph shall not apply to the initial sales and conveyances of the condominium units made by Declarant, and such sales shall be free from common expenses to the date of conveyance made or to a date as agreed upon by Declarant and Declarant's grantee.

ARTICLE XXVI

MORTGAGING A CONDOMINIUM UNIT - PRIORITY

An owner shall have the right from time to time to mortgage or encumber his interest 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, liens or encumbrances on the following conditions:

- a) That any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, liens for common expenses and other obligations created by this Declaration, the Articles of Incorporation and the By-Laws for the Association.
- b) That 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 by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request from one or more of the members of the Board of Directors of the Association.

ARTICLE XXVII

RIGHT OF FIRST REFUSAL BY OWNERS

In the event any owner of a condominium unit other than the Declarant shall wish to sell, lease or rent a condominium unit and shall have received an acceptable bona fide offer therefor from a prospective purchaser, lessee or tenant, the remaining unit owners shall be given written notice thereof, together with an executed or machine copy of such offer. Such notice and a copy thereof shall be delivered to the Board of Directors who shall notify each of the owners of such notice and offer. Any such notice shall be deemed given when posted in the United States Mail, postage prepaid, and addressed to an owner at his address carried on the books of the Association. One or more of the unit owners, acting individually or through another owner or owners, shall have the right to purchase, lease or rent the subject condominium unit upon the same terms and conditions as set forth in the offer; provided that during the twenty (20) day period immediately following the notice, written notice of such election to purchase, lease or rent is given to the selling, leasing or renting owner and a matching down payment or deposit is paid to an escrow agent. Closing shall take place within ten (10) days thereafter.

In the event two or more remaining owners shall have given their notice to the selling or leasing owner as provided above, the determination of who among the competing owners shall have the right to purchase or lease the unit shall be made as follows: The selling owner shall notify all owners who submitted their notice of election to purchase or lease and provided the down payment or deposit as required hereinabove, to submit sealed bids to the Board of Directors to the attention of the President, within twenty (20) days from the receipt of such notice. The President shall open all such bids upon the thirtieth day following the day the selling owner mailed said notice to the competing owners and the owner submitting the bid offering the highest purchase price or rental for the subject unit shall have the right to purchase or lease the same, provided that the price and/or terms are at least equal to those contained in the acceptable bona fide offer from the prospective purchaser, lessee or tenant.

The right of first refusal herein provided shall not apply to leases, subleases or tenancies having a term of one year or a lesser term, but any such lease or tenancy shall not be renewable nor extend except by compliance with the provisions of Article XXX.

In the event any owner other than the Declarant shall attempt to sell, lease or rent his condominium unit without affording to the other owners the right of first refusal herein provided, such sale, lease or rental shall be wholly null and void and shall confer no title or interest whatsoever upon the intended purchaser, lessee or tenant who shall be subject to eviction and removal, forcible or otherwise, with or without process of law.

The subleasing or subrenting of said interest shall be subject to the same limitations as are applicable to the leasing or renting thereof. The liability of the owner under and by the provisions contained in this Declaration shall continue, notwithstanding the fact that he may have leased or rented said interests as provided herein.

In no case shall the right of first refusal reserved herein affect the right of an owner to subject his condominium unit to a bona fide trust deed, mortgage or other security instrument.

The failure of or refusal by the owners to exercise the right to so purchase, lease or rent shall not constitute or be deemed to be a waiver of such right to purchase, lease or rent when an owner receives any subsequent bona fide offer from a prospective purchaser, lessee or tenant.

Except as is otherwise provided in Article XXVII, and except upon transfer of title to a Public Trustee or to a mortgagee, each and every conveyance by a grantor(s) of a condominium unit shall be, for all purposes, deemed to include and incorporate in such instrument of conveyance an agreement that the grantee carry out the provisions of the "right of first refusal" as provided in this Article.

ARTICLE XXVIII

EXEMPTION FROM RIGHT OF FIRST REFUSAL FIRST MORTGAGEES

In the event of any default on the part of any owner under any first mortgage which entitles the holder thereof to foreclose same, any sale under such foreclosure, including delivery of a deed to the first mortgagee in lieu of such foreclosure, shall be made free and clear of the provisions of Article XXVI, and the purchaser (or grantee under such deed in lieu of foreclosure) of such condominium unit shall be thereupon and thereafter subject to the provisions of this Declaration and the By-Laws of the Association. If the purchaser following such foreclosure sale (or grantee under deed given in lieu of such foreclosure) shall be the then holder of the first mortgage, or its nominee, the said holder or nominee may thereafter sell and convey the condominium unit free and clear of the provisions of Article XXVI, but its grantee shall thereupon and thereafter be subject to all of the provisions thereof.

ARTICLE XXIX

EXEMPTION FROM RIGHT OF FIRST REFUSAL OTHER

The following transfers are also exempt from the provisions of Article XXVI:

- a) The transfer by operation of law of a deceased joint tenant's interest to the surviving joint tenant(s);
- b) The transfer of a deceased's interest to a devisee by Will or his heirs at law under intestacy laws;

c) The transfer of all or any part of a partner's interest as a result of withdrawal, death or otherwise, to the remaining partners carrying on the partnership business and/or to a person or persons becoming partners. A transfer of all or part of a partner's or partners' interests between one or more partners and/or to persons becoming partners;

d) The transfer by gift;

e) The transfer of an owner's interest to a trustee;

f) The transfer or conveyance by operation of law or otherwise of the interest of any owner to any other co-owner, where such co-owners held title to a unit as tenants-in-common or as joint tenants;

g) The transfer of an owner's interest by treasurer's deed pursuant to a sale for delinquent taxes, or by sheriff's deed pursuant to a judgment execution sale;

g) The transfer of a corporation's ownership interest to persons owning stock in the corporation as a result of a dissolution, distribution of a dividend, merger or consolidation;

Such persons, owners, grantees or donees acquiring an interest shall be subject to all of the provisions of Article XXVI except as is provided herein.

ARTICLE XXX

CERTIFICATE OF COMPLIANCE RIGHT OF FIRST REFUSAL

Upon written request of any prospective transferee, purchaser, tenant or a prospective mortgagee of a condominium unit, the Managing Agent or the Association by its Secretary shall issue a written and acknowledged certificate in recordable form evidencing that:

a) With respect to a proposed lease or sale under Article XXVI, that proper notice was given by the selling or leasing owner and that the remaining owners did not elect to exercise their option to purchase or lease;

b) With respect to a deed to a first mortgagee or its nominee in lieu of foreclosure and a deed from such mortgagee or its nominee, pursuant to Article XXVI, that the deeds were in fact given in lieu of foreclosure and were not subject to the provisions of Article XXVI;

c) With respect to any contemplated transfer which is not in fact a sale or lease, that the transfer will not be subject to the provisions of Article XXVI; and such a certificate shall be conclusive evidence of the facts contained therein. The provisions set forth in this Paragraph shall not apply to the initial sales and conveyances of condominium units made by Declarant.

ARTICLE XXXI

ASSOCIATION AS ATTORNEY-IN-FACT

This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its damage, destruction 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 or other instrument of conveyance from the Declarant or from any owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the 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 property upon its damage, destruction or obsolescence as is hereinafter provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant 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 exercise the powers herein granted. Repair and reconstruction of the improvements as used in the succeeding subparagraphs means restoring the improvements to substantially the same condition in which they existed prior to the damage, with each unit and the general and limited common elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration or replacements unless the owners and all first mortgagees agree not to rebuild in accordance with the provisions set forth hereunder.

A. In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvements, shall be applied by the Association, as attorney-in-fact, to cause the repair and restoration of the improvements.

B. If the insurance proceeds are insufficient to repair and reconstruct the improvements, 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 owners and their condominium units.

Such deficiency assessment 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 within 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 in Article XXIII. 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 required to pay the Association the costs and expenses for filing the notices, interest on the amount of the assessment at the rate of eighteen percent (18%) and all reasonable attorneys' fees and costs incident to a sale. 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:

a) For payment of taxes and special assessments liens in favor of any assessment entity and customary expense of sale;

b) For payment of the balance of the lien of any first mortgage;

c) For payment of unpaid common expenses and all costs, expenses and fees incurred by the Association;

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

c) The balance, if any, shall be paid to the unit owner.

Notwithstanding Article XXXIB, supra, if the insurance proceeds are insufficient to repair and reconstruct the improvement(s), all of the owners and the first mortgagees of record may agree not to repair or reconstruct the improvements; and in such event, 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 or Assistant Secretary, the entire project shall be sold by the Association pursuant to the provisions of this paragraph, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the Map, Articles of Incorporation and By-Laws. Assessments for common expenses shall not be abated during the period prior to sale. The insurance settlement proceeds shall be collected by the Association; and such proceeds shall be divided by the Association according to each owner's interest in the common elements, and such divided proceeds shall be paid into separate accounts, each such account representing one of the Condominium Units. 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 forthwith use and disburse the total amount of each of such accounts, without contribution from one account to another, toward the partial or full payment of the lien of any first mortgagee encumbering the Condominium Unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire property. Such apportionment shall be based upon each Condominium Unit owner's interest in the common elements. The total funds of each account shall be used and disbursed, without contribution, from one account to another by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in Article XXXI B(a) through B(e) of this section.

The owners representing an aggregate ownership interest of eighty percent (80%), or more, of the general common elements may agree that the general common elements are obsolete and adopt a plan for the renewal and reconstruction, which plan has the unanimous approval of all first mortgagees of record at the time of the adoption of such plan. If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the owners as common expenses; provided, however, that an owner not a party to such a plan for renewal or reconstruction may give written notice to the Association within fifteen (15) days after the date of adoption of such plan that such unit shall be purchased by the Association for the fair market value thereof. The Association shall then have thirty (30) days (thereafter) within which to cancel such plan. If such plan is not canceled, the condominium unit of the requesting owner shall be purchased 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 (30) days thereafter. If the parties are unable to agree, the date when either party notifies 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 (10) days following the commencement date, each party shall nominate in writing (and give notice of such nomination to the other party) an appraiser. If either party fails to make such a nomination, the appraiser nominated shall, within five (5) days after default by the other party, appoint and associate with him another appraiser. If the two designated or selected appraisers are unable to agree, they shall appoint another appraiser to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, each appraiser previously appointed shall nominate two appraisers, and from the names of the four appraisers so nominated one shall be drawn by lot by the appraiser appointed by the owner in the presence of

the other appraiser, and the person whose name was so drawn shall be the umpire. The nominations from whom the umpire 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 the decision of the umpire, 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 the proceeds for the same purposes and in the same order as is provided in Article XXXIB(a) through B(e) of this section, except as modified herein.

The owners representing an aggregate ownership interest of eighty percent (80%), or more, of the general common elements, with the consent of all first Mortgagees of record at that time, may agree that the condominium units are obsolete and that the same should be sold. 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 or Assistant Secretary, the entire premises 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 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 (1) condominium unit and 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 Article XXXIB(a) through B(e) of this section.

ARTICLE XXXII

CONDEMNATION

A. CONSEQUENCES OF CONDEMNATION - If at any time or times during the continuance of the Condominium Project pursuant to this Declaration, all or any part of the Condominium Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu thereof or in avoidance thereof, then all compensation, damages, or other proceeds therefrom the sum of which is hereinafter referred to as the "Condemnation Award", shall be payable to the Association, and the provisions of this Article XXXII shall apply.

B. COMPLETE TAKING - In the event that the entire Condominium Project is taken or condemned or sold or otherwise disposed of in lieu thereof or in avoidance thereof, the condominium ownership pursuant thereto shall terminate. The Condemnation Award shall be apportioned among the Owners on the basis of each Owner's undivided interest in the Common Elements; provided, however, that if a standard different from the value of the Condominium Project as a whole is employed to measure the Condemnation Award in the negotiation, judicial decree, or otherwise, then in determining such apportionment the same standard shall be employed. The Association shall, as soon as practical, determine the share of the Condemnation Award to which each Owner is entitled, and such shares shall be paid into separate accounts and disbursed as soon as practical for the same purposes and in the same order as is provided in Article XXXIB(a) through B(e) hereof.

C. PARTIAL TAKING - In the event that less than the entire Condominium Project is taken or condemned or sold or otherwise disposed of in lieu thereof 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 under the following provisions. As soon as practical, the Association shall reasonably and in good faith allocate the Condemnation Award between 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 Common Elements shall be apportioned among Owners on the basis of each Owner's undivided interest in the Common Elements;

b) The total amount allocated to severance damages shall be apportioned to the Owners of those Condominium Units which were not taken or condemned;

c) The respective amounts allocated to the taking of or injury to a particular Condominium Unit or to improvements an Owner has made within his own Condominium Unit shall be apportioned to the Owner of that particular Condominium Unit involved; and

d) The total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable under 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. Distribution of apportioned proceeds shall be made by checks payable jointly to the respective Owners and their respective First Mortgagees.

D. REORGANIZATION - In the event a partial taking results in the taking of an Individual Air Space Unit, the Owner thereof shall automatically cease to be a member of the Association, and his ownership interest in the Common Elements shall terminate and vest in the Owners of the remaining Condominium Units. Thereafter, the Association shall reallocate the ownership, voting rights, and assessment ratios 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 the remaining Individual Air Space Units for the amendment of this Declaration.

E. REPAIR AND RECONSTRUCTION - Any repair and reconstruction necessitated by condemnation shall be governed by the procedures contained in Article XXXI hereof.

F. NOTICE OF CONDEMNATION TO FIRST MORTGAGEES - In the event that any portion of the Condominium Project shall be made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, and subject to the provisions of Article XXXVI of this Declaration, then timely written notice of such condemnation shall be given by the Association to each Owner and First Mortgagee.

ARTICLE XXXIII

PERSONAL PROPERTY FOR COMMON USE

The Association, as Attorney-in-fact for all of the owners, may acquire and hold for the use and benefit of all of the condominium unit owners, tangible and intangible personal property and may dispose of the same by sale or otherwise. The beneficial interest in any such property shall be owned by all of the condominium unit owners in the same proportion as their respective interests in the general common elements, and such interest therein shall not be transferable except with a transfer of a

condominium unit. 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 purpose 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 personal property associated with the foreclosed condominium unit.

ARTICLE XXXIV

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 certified mail, postage prepaid, addressed in the name of the owner at such registered mailing address, any such notice shall be deemed given when so mailed. All notices, demands or other notices intended to be served upon the Board of Directors of the Association or the Association shall be sent certified mail, postage prepaid, to P.O. Box 1547, Vail, Colorado 81657, until such address is changed by notice of address change duly recorded in the Office of the Clerk and Recorder, County of Eagle, Colorado.

ARTICLE XXXV

PERIOD OF CONDOMINIUM OWNERSHIP

The separate condominium estates created by this Declaration and the Map shall continue until this Declaration is revoked or terminated in the manner provided in this Declaration.

ARTICLE XXXVI

GENERAL

A. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

B. Any notice required to be sent to any Mortgagee under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last-known address of the persons who appears as a Mortgagee on the records of the Association at the time of such mailing.

C. The provisions of this Declaration shall be in addition to and supplemental to the Condominium Ownership Act of the State of Colorado and to all other provisions of law.

D. 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.

EXHIBIT A
TO
CONDOMINIUM DECLARATION
FOR
THE VAIL GOLFCOURSE TOWNHOMES CONDOMINIUM

UNIT NO.	BUILDING	UNDIVIDED INTEREST IN AND TO THESE GENERAL COMMON ELEMENTS %	
1	A	6-2/3	
2	A	6-2/3	
3	A	6-2/3	
4	A	6-2/3	
5	B	6-2/3	
6	B	6-2/3	
7	B	6-2/3	
8	B	6-2/3	
9	C	6-2/3	
10	C	6-2/3	
11	C	6-2/3	
12	D	6-2/3	
13	D	6-2/3	
14	D	6-2/3	
15	D	6-2/3	

ARTICLE XXII

RECREATIONAL FACILITIES

The recreational facilities are those referred to in the "Amended Declaration of Protective Covenants, Conditions and Restrictions for Fallridge Recreational Facilities" recorded January 25, 1978 in Book 265, Page 986 of the records of the Eagle County Clerk and Recorder, Eagle, Colorado and the "Amended Legal Description For Amended Declaration Of Protective Covenants, Conditions and Restrictions for Fallridge Recreational Facilities" recorded October 5, 1978 in Book 276, Page 283 of the records of the Eagle County Clerk and Recorder, Eagle, Colorado as they relate to the "Club" and "The Fallridge Community Association, Inc." Such facilities shall be available to all unit owners in the Association and all such owners so entitled shall be obligated for any fees or charges associated with such installation and maintenance of the said present and potential facilities, according to the terms and conditions of the "Amended Declaration of Protective Covenants, Conditions and Restrictions for Fallridge Recreational Facilities" and the "Amended Legal Description For Amended Declaration Of Protective Covenants, Conditions and Restrictions for Fallridge Recreational Facilities".

ARTICLE XXIII

DEFINITIONS

Unless otherwise specified, terms shall have the same meaning in these By-Laws as such terms have in the Declaration.

ADOPTED BY THE BOARD OF DIRECTORS OF THE VAIL GOLFCOURSE TOWNHOMES ASSOCIATION, PHASE I THIS _____ DAY OF _____, 1979.

Abraham L. Shapiro

Kenneth E. Shapiro

Darlynn A. Leibring

Sylvia Shapiro

ATTEST:

Secretary

(SEAL)