

ARDIS W. SCHMITZ
El Paso County Clerk & Recorder

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
PARK PLACE CONDOMINIUMS

174 ⁰⁰

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CONDOMINIUM DECLARATION

OF

PARK PLACE CONDOMINIUMS

THIS DECLARATION is made and executed this 26th day of JUNE, 1985, by W. D. RITCHIE DEVELOPMENT COMPANY, a Colorado general partnership, hereinafter called "Declarant", for itself, its successors and assigns.

W I T N E S S E T H:

WHEREAS, Declarant is the owner of the real property situate in the County of El Paso, State of Colorado, described in EXHIBIT A, attached hereto (hereinafter called the "Property"); and

WHEREAS, Declarant desires to establish a condominium project under the Condominium Ownership Act of the State of Colorado and the provisions of this Declaration; and

WHEREAS, by this Declaration a plan is established for the separate ownership of the condominium units and for submitting the above described property for condominium use;

NOW, THEREFORE, Declarant hereby submits the Property and improvements thereon to condominium ownership and use pursuant to the Condominium Act and this Declaration and declares that the Property shall be held, sold, encumbered, mortgaged, liened, transferred and conveyed subject to the following covenants, conditions, easements and restrictions which are for the purpose of protecting the value and desirability of the Property, and which shall run with the Property and shall be a burden and a benefit to other parties acquiring or owning an interest in the Property, or improvements thereon, their grantees, successors, heirs, devisees, personal representatives and assigns.

ARTICLE I

DEFINITIONS

The terms used herein shall have the meanings stated in the Condominium Act and as set forth below, unless the contents shall expressly provide otherwise.

1.1. "Association" means the Monument Park Place Condominium Owners Association, Inc., a Colorado nonprofit membership corporation, its successors and assigns.

1.2. "Board" means the Board of Managers of the Monument Park Place Condominium Owners Association, Inc.

1.3. "Building" means a separate building improvement located upon the Property and consisting of one or more floors to be used for residential purposes, having access to a public street, and containing individual Units, which structure together with the Common Elements comprises the Condominium Project.

1.4. "Common Elements" means and includes all of the Property, and all of the improvements thereto and thereon located, excepting all Units as the same are herein defined. The Common Elements shall be owned by the Owners of the separate Condominium Units as tenants in common; each Owner shall have an undivided interest in the Common Elements. Common Elements shall consist of the General Common Elements and the Limited Common Elements, which are defined as follows:

A. "General Common Elements" means a part of the Common Elements and includes by way of illustration and not limitation, any of the following to the extent located within the Project: the real Property described on Exhibit "A", the foundations, columns, girders, beams, supports, main walls, chimneys, roofs, hall, corridors, lobbies, stairs, stairways, yards, elevators, gardens, roads, sidewalks, walkways, paths, streets, grass, landscaping, installations of central services such as electricity, water, common utilities, and related tanks, pumps, motors, fans, compressors, pipes, and lines, located within the Condominium Project, and in general all apparatus and installations existing for common use and all other parts of the Property necessary and convenient to the existence of the Condominium Project, its maintenance and safety, which are normally in common use including the air space above the Property which is not

within the respective Condominium Units. General Common Elements shall include all tangible physical properties of this Project, except Limited Common Elements and the Units.

B. "Limited Common Elements" means those portions of the Common Elements which are either limited to and reserved for the exclusive use and enjoyment of an Owner or limited to and reserved for the common use of more than one, but fewer than all, of the Owners.

1.5 "Common Expenses" means and includes (i) expenses of administration, maintenance, repair or replacement of the Common Elements; (ii) expenses declared common expenses by the Association; (iii) all sums lawfully assessed against the Condominium Units by the Board of Managers of the Association; and (iv) expenses agreed upon as common expenses by the Association of Unit Owners.

1.6 "Condominium Act" means the Condominium Ownership Act of the State of Colorado (Article 33 of Title 38, C.R.S.) as now enacted and hereinafter revised, modified and amended.

1.7 "Condominium Unit" means one Unit together with the undivided interest in the Common Elements appurtenant to such Unit and all other appurtenant rights.

1.8 "Declarant" means W. D. Ritchie Development Company, a Colorado general partnership, its successors or assigns, to whom it transfers or assigns in writing its rights as Declarant hereunder, and its authorized representatives.

1.9 "Declaration" means this Condominium Declaration, by which this Condominium Project is established, and which defines the character, duration, rights, obligations and limitations of condominium ownership herein established together with any supplements or amendments hereto which shall have been recorded in the office of the Clerk and Recorder of El Paso County, Colorado, pursuant to the Condominium Act.

1.10. "Guest" means any agent, employee, guest, licensee or invitee of an Owner.

1.11. "Map" or "Condominium Map" means the engineering drawings and survey containing the information required in Article II of this Declaration and recorded as required by said Article. Either term shall include the original and all supplemental maps, if any.

1.12. "Mortgage" means and refers to any mortgage, deed of trust or other assignment or comparable security instrument recorded in the records of the office of the Clerk and Recorder of El Paso County, Colorado, and by which a Condominium Unit or any part thereof is encumbered.

1.13. "First Mortgage" means and refers to the unpaid and outstanding mortgage, having priority of record over all other recorded encumbrances and liens, except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments).

1.14. "Mortgagee" means any person or other entity or any successor to the interest of such person or entity named as the mortgagee, trust beneficiary, or creditor under any recorded mortgage, deed of trust, or other security instrument by which a Condominium Unit or any interest therein is encumbered.

1.15. "Owner" means any person, corporation, partnership, association, contract seller or other legal entity or any combination hereof, including Declarant, who owns the record fee simple interest in one or more Condominium Units. The term "Owner" shall include any grantee, transferee, heir, successor, personal representative, executor, administrator, devisee, and assign of any Owner but shall not refer to any Mortgagee as herein defined, or other person or entity having an ownership interest in any Condominium Unit merely as security for the performance of an obligation, unless such Mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

1.16. "Owner's Proportionate Share" or "Proportionate Interest" means that percentage of the total which is equal to such Owner's percentage interest in the Common Elements, as set forth in Exhibit "B" attached hereto and incorporated herein by this reference.

1.17. "Property" means the real Property described in Exhibit "A" attached hereto.

1.18. "Project" or "Condominium Project" means all Buildings and other improvements located on the Property and all rights, easements and appurtenances belonging thereto, and all of the undivided fee simple interest in the Property and shall include any real property annexed or added to the Project.

1.19. "Unit" means an individual air space which is contained within the interior surfaces of the perimeter walls, floors, ceilings, windows and doors of any enclosed room or rooms occupying all or part of a floor or floors in a Building, together with all fixtures and improvements therein contained, all interior non-bearing walls within the Unit and the inner decorated and/or finished surfaces of perimeter walls, floors and ceilings, including but not limited to plaster, paint, wallpaper, and where found along such walls, floors and ceilings, the interior surfaces of built-in fireplaces with their flues in the closed position and windows and doors in their closed position, together with any balcony or patio appurtenant thereto. The term does not include any of the structural components for the Building, if any, located within the Unit, any utilities running through the Unit that serve more than one Unit, or any other Common Element or part thereof located within the Unit.

ARTICLE II

CONDOMINIUM MAP

2.1 Recording. The Map of the Property and the improvements thereon shall be filed for record in the office of the Clerk and Recorder of El Paso County, Colorado, prior to the first conveyance of a Condominium Unit.

2.2 Contents. Each such map or supplement shall depict and show at least the following: the legal description of the land and a survey thereof; the location of the Buildings in reference to the exterior boundaries of the Property; the floor and elevation plans; the location of the Units within the Buildings, 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 the Buildings located within a Unit; the Condominium Unit designations; the Building designations; the designations of the Limited Common Elements, and the certification of the engineer, licensed architect or registered land surveyor stating that the Map substantially depicts the location and the horizontal and vertical measurements of the Units, the Unit designations, the Building designations, the location of the parking and storage spaces and the elevations of the constructed unfinished floors and ceilings of the Units and an affirmation that such Map was prepared subsequent to substantial completion of the improvements shown thereon. In interpreting the Map, the existing physical boundaries of each separate Unit as constructed shall be conclusively presumed to be its boundaries. Declarant reserves the right to amend the Map, from time to time, without the consent of the Owners being required, to conform the same according to the actual location of any of the improvements and to establish, vacate and relocate easements, access roads, on-site parking areas, garages and/or carports. Declarant's right, as hereinabove set forth, shall terminate on the conveyance by Declarant of all Condominium Units within the project, or on June 30, 1987, whichever occurs first.

2.3. Carports, Garages and Parking. Declarant hereby reserves the right, at its option, to construct garages and/or carports upon the General Common Elements and to designate the same and/or any parking spaces as Limited Common Elements for the exclusive use of particular Owners

by recording a supplement to the Condominium Map. Declarant may convey any of the foregoing by the deed conveying the Condominium Unit or by separate conveyance. Following such conveyance, the carport, garage or parking space shall not be sold, ~~transferred~~, or conveyed apart from the Condominium Unit to which it is appurtenant, and reference thereto shall be added to the legal description set forth in Section 4.1 hereof.

ARTICLE III

NATURE OF OWNERSHIP

3.1 Division of Property into Condominium Units. The Property is hereby divided into forty (40) separate Condominium Units, each consisting of a separate fee simple estate in a Unit, an appurtenant, undivided Proportionate Interest as tenant in common in and to the Common Elements, and all rights appurtenant thereto.

3.2 Inseparability of a Condominium Unit. Each Unit, together with the undivided interest in the General Common Elements and the Limited Common Elements appurtenant thereto, shall be inseparable and may be conveyed, leased, devised, sold, transferred, or encumbered only as a Condominium Unit.

3.3 Nonpartitionability of Common Elements. The Common Elements shall be owned in common by all of the Owners as tenants in common and shall remain undivided. No Owner, group of Owners or the Association shall bring any action for partition or division thereof, it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Condominium Project, and each Owner hereby expressly waives any and all such rights of partition he may have by virtue of his ownership of a Condominium Unit. Nothing contained herein shall be construed as a limitation of the right of legal partition of a Condominium Unit between the Owners thereof, but such legal partition

shall not affect any other Condominium Unit, nor shall any such partition sever any part thereof from such Condominium Unit as a whole.

3.4. Assessments and Taxation. Declarant shall give written notice to the Assessor of the County of El Paso, Colorado, of the creation of condominium ownership of the project, as is provided by law, so that each Condominium Unit and the undivided Proportionate Interest in the Common Elements appurtenant thereto, shall be deemed a separate parcel and subject to a separate assessment and taxation.

3.5. Ownership-Title. A Condominium Unit may be held and owned by more than one person as joint tenants or as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Colorado. Each such Owner shall have and be entitled to the exclusive ownership and possession of his Unit.

3.6. Use of Common Elements. Subject to the restrictions contained in this Declaration, including without limitation the restriction contained in Section 8.1, each Owner, his family members, guests, and tenants shall have the non-exclusive right to use and enjoy the General Common Elements for the purpose for which they are intended, subject to the rules and regulations of the Association and without hindering or interfering with the lawful rights of other Owners, and shall have the exclusive right to use and enjoy the Limited Common Elements appurtenant to that Condominium Unit and designated for exclusive use by such Owner.

3.7. Ingress and Egress and Support. Each Owner, his family members, guests and tenants shall have the right to vehicular and pedestrian ingress and egress over, upon, and across the General Common Elements necessary for access to that Condominium Unit, to public streets, and to the Limited Common Elements designated for use in conjunction with that Condominium Unit, and each Condominium shall have the right to the horizontal and lateral support of his Unit. Such

rights shall be appurtenant to and pass with the title to each Condominium Unit.

3.8 Charges for Use. Except for the assessments set forth in Article XI hereof and except for charges subsequently imposed by the Declarant or the Association for the use of garages, carports or parking spaces, if any, no Unit Owner shall be required to pay any additional fees or charges in connection with such Owner's use of any of the Common Elements existing at the recording of this Declaration.

3.9 Recreational Facilities. An exercise facility for recreational use has been constructed and is included in the Project as shown by the Condominium Map, and no other recreational facilities will be constructed except as provided in paragraph 3.12 below.

3.10 Right to Combine Units. Declarant hereby reserves the right to physically combine the area or space of one Unit with the area or space of one or more adjoining Units; provided, however, that Declarant shall not exercise said right without the written consent of any Mortgagee having an interest in the respective Condominium Units. In the event of any such physical combining of Units to create a combined Unit, the combined Unit shall also include the fixtures and improvements and undivided interest in Common Elements appurtenant to the Units so combined and shall be legally described by reference to both Unit members followed by the word "combined". Declarant reserves the right to designate and convey to any purchaser of any such combined Unit, as additional Limited Common Elements appurtenant thereto, any walls, floors or other structural separations between the Units so combined, or any space which would be occupied by such structural separations but for the combination of such Units; provided, however, that such walls, floors or other structural separations or such space shall automatically become General Common Elements if the combined Units become

subject to separate ownership in the future. This reserved right in Declarant shall terminate upon the conveyance by the Declarant of all of the Units within the Project, or on June 30, 1987, whichever event occurs first.

3.11 Certain Work Prohibited No Owner shall undertake any work in his Unit which would jeopardize the soundness or safety of the Project, reduce the value thereof or impair an easement or hereditament thereon or thereto, nor shall any Owner enclose, by means of screening or otherwise: the balcony, patio or porch which is accessible from, associated with and which adjoins a Unit, without having first obtained the prior written approval of the Board or the Declarant with respect to the materials, design and specifications for such enclosure, as more particularly provided in Article VII. Structural alterations shall not be made by an Owner to the Building or in the water, gas or steam pipes, electric conduits, plumbing or other fixtures connected therewith, nor shall an Owner remove any additions, improvements or fixtures from the Building without the prior written consent of the Board or the Declarant first having been obtained.

3.12 New Additions to Common Elements. Subject to the other provisions of this Condominium Declaration, the Declarant or the Board shall have the right to construct or acquire new additions to the Common Elements. Ownership of such additions to the Common Elements shall be apportioned among all Condominium Units in proportion to each Owner's Proportionate Interest set forth in Exhibit "B" attached hereto, and the expenses thereof shall be apportioned as provided in Article XI hereof; any such addition shall not affect an Owner's voting power as provided in Article VIII hereof. The Declarant's right hereunder shall terminate upon the conveyance of all of the Units within the Project or June 30, 1987, whichever event occurs first.

ARTICLE IV

DESCRIPTION, TRANSFER, AND CONVEYANCE OF A CONDOMINIUM UNIT

4.1 Description. Every contract for the sale of a Condominium Unit and every deed, lease, mortgage, trust deed, will or other instrument affecting title to, or interest in, a Condominium Unit, may legally describe that Condominium Unit, in the following manner (with appropriate insertions):

Condominium Unit _____, Park Place Condominiums, according to the Condominium Map thereof filed for record in the records of the office of the Clerk and Recorder of El Paso County, Colorado, on _____, 19____, in Book _____, at Page _____, and as defined and described in the Condominium Declaration for Park Place Condominiums recorded on _____, 19____, in Book _____, Page _____, in said records.

4.2 Transfer. Every instrument affecting title to or interest in a Condominium Unit which describes it in the manner set forth above, shall be good and sufficient for all purposes to sell, convey, transfer, assign, encumber or otherwise affect not only that Unit, but also, without requiring specific reference thereto, the undivided interest in the General Common Elements and the Limited Common Elements appurtenant thereto and all other appurtenant Property rights and interests, together with all easements and all fixtures and improvements therein contained (unless any thereof shall be Common Elements), and to incorporate all of the rights, limitations, and burdens incident to ownership of a Condominium Unit as provided in this Declaration and the Condominium Map.

4.3 Amendments. The reference to the Map and Declaration in any instrument shall be deemed to include any supplements or amendments to the Map or Declaration without specific reference(s) thereto.

ARTICLE V

EASEMENTS

5.1 Recorded Easements. The Property, and all portions thereof, shall be subject to the easements as shown on any recorded plat affecting the Property, or any portion thereof, and as shown on the Condominium Map.

5.2 Association Use. The Association, its officers, agents and employees shall have a non-exclusive easement to make such use of and to enter into or upon the General Common Elements as may be necessary or appropriate to perform the duties and functions which it is permitted or required to perform pursuant to this Declaration, including, but not limited to, the right to construct and maintain on the Common Elements maintenance and storage facilities for use by the Association.

5.3 Maintenance, Repair, Replacement and Emergencies. If any Common Elements are located within a Unit, or are conveniently accessible only through a Unit, the Association, its officers, agents or employees, shall have the right to enter such Unit from time to time during such reasonable hours as may be necessary, for the maintenance, repair and replacement of any of such Common Elements or at any time as may be necessary for making emergency repairs to prevent damage to the Common Elements or to another Unit or Units. Damage to any part of a Unit or Units, resulting from such maintenance, repair, emergency repairs or replacements, and any damage caused by the Common Elements located outside of the Unit, including without limitation broken water pipes, sewer lines or other utilities, shall be a common expense of all of the Owners, unless such damage is the result of the misuse or negligence of the Owner, his family, his tenants or his Guests, in which case such Owner shall be responsible and liable for all of such damage and may be charged for any cost thereof by special assessment. No diminution or abatement of assessments shall be claimed or allowed for inconveniences or discomfort arising from the making of repairs or improvements or from action taken to comply with any law, ordinance or order of any governmental authority. Restoration of the damaged improvements shall be substantially the same as the condition in which they existed prior to the damage.

5.4 Encroachments. Easements for encroachments between a Unit or Units and portions of the Common Elements exist: (a) in favor of all Owners so that same shall have no legal liability when any part of the Common Elements encroaches or shall encroach upon a Unit; (b) in favor of the Owner of each Unit so that same shall have no legal liability when any part of his Unit encroaches or shall hereafter encroach upon the Common Elements or upon another Unit; (c) in favor of all Owners, the Association, and the Owner of any encroaching Unit, as applicable, if upon the reconstruction or repair of a partially or totally destroyed Unit, said Unit encroaches upon the Common Elements or upon another Unit, or if the Common Elements then encroach upon said Unit; and (d) in favor of all Owners, the Association, and the Owner of any encroaching Unit, as applicable, for the maintenance and repair of such encroachments. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any Building or Unit constructed on the Property, by error in the Condominium Map, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof. Such encroachments and easements shall not be considered or construed to be encumbrances either on the Limited or General Common Elements or on the Condominium Units.

5.5 Utilities. Declarant reserves the right to grant such easements through the Property as may be required for utility services in order to adequately serve the Project. The Board shall have the right to grant additional utility easements through any portion of the Common Elements, and each owner hereby irrevocably appoints the Board as attorney in fact for such purpose.

5.6 Construction. Declarant shall have the right to ingress and egress over the Common Elements and the right to store materials thereon and to make such other reasonable use thereof as may be necessary to complete the Project, except that such use by the Declarant may not unreasonably

interfere with the Owners' use and enjoyment of their Units and the Common Elements, nor with their rights of ingress and egress to their Units from a public way.

5.7 Public Servants and Emergencies. An easement is further granted for the use of the Colorado Springs Police Department, the fire department, ambulances and other emergency vehicles to enter upon the streets, Common Elements, and the Project in the performance of their duties.

5.8 Easements Deemed Created. The easements, uses and rights herein created for an Owner shall be deemed appurtenant to the Unit of that Owner, and all conveyances of Condominium Units hereafter made, whether by Declarant or otherwise, shall be construed to grant or reserve the easements set forth herein, even though no specific reference to such easements or this Article appears in the instrument for such conveyance.

ARTICLE VI

MECHANICS' LIENS

6.1 Mechanics' Liens - Association Work. Labor performed, or services or materials furnished for the Common Elements, if duly authorized by the Board, shall be deemed to be performed or furnished at the express consent of each Owner, provided however, any Owner may remove his Condominium Unit from any such lien against the Project or against two or more Condominium Units, or against the Common Elements or a portion thereof, by payment to the holder of the lien of the fraction of the total sum secured by such lien, based upon the percentages shown in Exhibit "B", and the Board shall have no authority to bind the Owners beyond their pro rata share as provided above.

6.2 Mechanics' Liens - Owner Work. In the event a lien arises from work or materials furnished for use and incorporated in any Unit with the consent of or at the request of the Owner thereof or his agent or his contractor or subcontractor, and not requested by the other Owners or

the Board, such Owner shall indemnify, defend and hold harmless all other Owners and the Association from and against any liability or loss arising from the claim of any such lien. In no event shall the claim of any such individual lien be the basis for the filing of a lien against a Condominium Unit of any other Owner not expressly consenting to or requesting the same, or against any interest in the Common Elements except as to the undivided interest therein appurtenant to the Condominium Unit of the Owner for whom such labor shall have been performed or such materials shall have been furnished; the filing of any such lien against the Condominium Unit of a non-consenting Owner shall, to the extent permitted by law, be null and void and shall entitle such Owner to recover damages and expenses, including without limitation attorney's fees, from the lienor.

6.3 Other Liens. As required by the Condominium Act, Declarant hereby states that it is possible additional liens, other than mechanics' liens, assessment liens or tax liens, may be obtained, to the extent permitted by law, against the Common Elements.

ARTICLE VII

USE RESTRICTIONS

7.1 Residential. Each Unit shall be occupied and used as a private dwelling for the Owner, the members of his family, guests and tenants for residential purposes only. No Unit shall be used for any business, manufacturing or commercial purpose whatsoever; provided, however, if the appropriate zoning so allows and if proper written approval of the Board is obtained, an Owner may use a specifically designated portion of his Unit as a home business office, which approval may thereafter be withdrawn or terminated by the Association at any time.

7.2 Architectural Control. No building, fence, wall or other structure shall be commenced, erected or maintained

upon the Common Elements, nor shall an addition to, or change or alteration therein be made until the plans and specifications showing the nature, shape, height, material and location of the same shall have been submitted to and approved in writing by the Board as to harmony of external design and location in relation to surrounding structures and topography. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other out-Buildings shall be used on any portion of the Property at any time as a residence, either temporarily or permanently.

7.3 Common Elements. Common Elements shall be used for the furnishing of services and facilities for which the same are reasonably intended and for the enjoyment of the Owners, their tenants and guests. There shall be no obstruction of the General Common Elements without the prior written consent of the Association, except as specifically provided herein. The Common Elements, including without limitation all improvements and landscaping thereon, shall not be altered, constructed upon, or removed except upon the consent of the Board. The Board may adopt rules and regulations governing the use of the Common Elements, but such rules shall be uniform and non-discriminatory. Each Owner, by the acceptance of his deed and other instrument of conveyance or assignment agrees to be bound by any such adopted rules and regulations. No Owner shall enter the meter rooms, mechanical equipments areas or attic areas designated General Common Elements, without the prior written approval of the Board or without the presence of an authorized representative of the Board or of the managing agent.

7.4 Prohibitions. Nothing shall be done or kept in any Unit, or in the Common Elements, or any part thereof, which would result in the cancellation of any insurance on the Project, or in an increase in the rate of any insurance on the Project, without the prior written consent of the

Board. No activities shall be permitted upon any portion of the Project which will violate the provisions of any applicable statute, rule, ordinance, regulations, permit, or other validly imposed requirement of any governmental body. No nuisance shall be allowed upon the Property, nor shall any use or practice be allowed which is a source of annoyance to residents, or which interferes with the peaceful possession and proper use of the Property by its residents. No damage to or waste of the Common Elements, or any part thereof, shall be committed by any Owner, or any invitee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against any loss resulting from any such damage or waste caused by him, the members of his family, guests or tenants.

7.5 Exceptions for Declarant. Notwithstanding any provisions herein contained to the contrary, it shall be permissible for Declarant, or any contractor involved in the construction of said Condominium Units, or in the development of the Project, to maintain during the period of construction and sale of said Units, upon such portions of the Project as are reasonably necessary, such facilities as may be reasonably required, convenient or incidental to the construction and sale of said Condominium Units, and to the development of the Project, including, but without limitation, a business office, storage area, equipment, construction yards, signs, model units, and sales office, except that such use by the Declarant or his Building contractor may not unreasonably interfere with the Owners' use and enjoyment of their Condominium Units and the Common Elements, nor with their right of ingress and egress to their Units from a public way. If the Declarant or his Building contractor use the Common Elements as set forth above, the Declarant shall at his own expense, restore said Common Elements.

7.6 Animals. No animals, livestock, poultry, snakes, fish or insects of any kind shall be raised, bred or kept in any Condominium Unit, except that not more than two animals may be kept in any Condominium Unit, provided they are dogs, cat. or other ordinary household pets, they do not weigh more than forty (40) pounds apiece, they are not kept, bred, or maintained for any commercial purpose, and they are not kept in such manner as to create a nuisance to other Owners. An Owner is obligated to clean up after his animal(s) on the Project. The Board may institute such rules as it deems advisable for the control of animals and may enforce such rules and this provision of the Declaration.

7.7 Storage Restrictions. All clotheslines, equipment, garbage cans, service yards, wood piles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from the view of neighboring Units and streets. All rubbish, trash or garbage shall be regularly removed from the Project, and shall not be allowed to accumulate thereon. Patios and balconies shall not be used as storage areas. Clothing, bedding or similar items shall not be displayed on any patio or balcony area.

7.8 Maintenance. Each Owner shall keep the interior of his Unit and the Limited Common Elements appurtenant thereto in a clean, sanitary and attractive condition and in a good state of repair.

7.9 Outside Structures. No exterior television or radio antenna, tower or similar structure of any sort shall be placed, allowed or maintained upon any portion of the improvements located upon the Property, without the prior written consent of the Board.

7.10 Leasing of Condominium Units. No Condominium Unit shall be occupied or rented for time sharing, transient or hotel purposes, which shall be defined as (a) occupancy

or rental for any period less than six months, provided any lease for a six month period may be extended on a month to month basis; or (b) any rental if the occupants are provided customary hotel services, such as room service for food and beverage, maid service, furnishing laundry and linen, and bellboy service. Other than the foregoing obligations, an Owner shall have the absolute right to lease his Condominium Unit for private residential, living or sleeping purposes and pursuant to the following conditions: (a) no Owner may lease less than his entire Condominium Unit, (b) all leases shall be in writing, and (c) all leases shall provide that the terms of the lease, and lessee's occupancy of the Condominium Unit, shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association and the rules and regulations of the Board and that any failure by the lessee to comply therewith shall be a default under the lease. The Board may require that an Owner produce a copy of the lease and enforce the lease against his Tenant.

7.11 Commercial Vehicles, Campers and Trailers. No commercial vehicles, campers, trailers, or vans shall be parked on any part or any road within the Project except when temporarily engaged in transport or unless parked in a carport, garage or area designated for such purpose by the Board.

7.12 Abandoned Vehicles. No abandoned vehicles shall be stored or parked upon any part of the Project, including but not limited to any residential street, alley or way of access within the Project, but excluding any garage or carport. In the event that the Board shall determine in its sole discretion that a vehicle is an abandoned vehicle, then a written notice describing the vehicle will be personally delivered to the owner thereof (if such owner can be reasonably ascertained) or will be conspicuously placed on the used vehicle (if the owner thereof cannot be reasonably ascertained), and if the unused vehicle is not removed within 72

hours thereafter, the Board shall have the right to remove the vehicle at the sole expense of the owner thereof. For the purpose of this Section, an "abandoned vehicle" is any automobile, truck, motorcycle, motor bike, boat, trailer, camper, motor home, housetrailer or other similar vehicle which has not been driven under its own propulsion, or has not been moved for a period of ten (10) days or longer. No mechanical work shall be performed upon any vehicle located upon the Property unless performed in a garage, if any, or otherwise as permitted by the rules of the Board.

7.13 Signs and Advertising. No signs, advertising, billboards, unsightly objects or nuisances shall be placed, erected or permitted to remain in or on any Condominium Unit or any part of the Project nor shall any Condominium Unit or any part of the Project be used in any way or for any purposes which may endanger the health, safety or life of any person, or which may unreasonably disturb the other Owners. The foregoing provisions of this Section shall not apply (a) to any reasonable signs, advertising or billboards erected by the Declarant in connection with its sale or rental of Condominium Units, or otherwise in connection with its development of the Project, as set forth in Section 7.5 of this Article, or (b) to for sale signs, if permitted by the Board pursuant to its rules and regulations.

ARTICLE VIII

ASSOCIATION MEMBERSHIP

8.1 Membership. The interest of all Owners of Condominium Units shall be governed and administered by this Declaration and the Articles of Incorporation, Bylaws and rules and regulations of the Association. Every Owner shall be a member of the Association and shall remain a Member until such time as his ownership of his Condominium Unit ceases. When more than one person holds title to a Condominium Unit, all such persons shall be Members of the Association, but such multiple

or joint ownership shall not increase the voting percentage appurtenant to such Unit. Membership in the Association shall not be transferred, except in connection with the transfer of a Condominium Unit. However, the rights of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a Condominium Unit. Membership in the Association is not transferred when an Owner leases his Condominium Unit; provided, however, the right to use the common area recreational facilities is transferred to the Tenant during the period of the lease, and such facilities shall not be used by the Owner, his family or guests during such period.

Each Owner shall comply strictly with, and shall cause each of his guests or tenants to comply strictly with all of the provisions of this Declaration and the Articles and Bylaws of the Association, and the decisions, rules, regulations 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 and for damages or injunctive relief or both, along with costs of suit and reasonable attorney's fees, maintainable by the Managing Agent or Board of Managers in the name of the Association on behalf of the Owners, or in a proper case, by an aggrieved Owner.

8.2 Voting Rights. The Association shall have one class of membership. Voting shall be equal with each Condominium Unit having one vote. The affirmative vote of a majority of the Condominium Units shall be required for decisions and action by the Association, unless otherwise provided herein. When more than one person holds an interest in a Condominium Unit, they may appoint one of their co-owners as proxy to cast the vote for that Condominium Unit. The vote for such Condominium

Unit shall be cast as the Owners thereof agree, but in no event shall they cast more than one vote on any one question. If the Owners of such Condominium Unit cannot agree as to the manner in which their vote shall be cast when called upon to vote, then they will be treated as having abstained. During this period, each Owner shall retain all other rights and obligations of membership in the Association.

8.3 Reservation by Declarant. Notwithstanding any other provisions to the contrary contained in this Declaration, the Articles of Incorporation or Bylaws of the Association, Declarant reserves the exclusive right (1) to exercise all voting rights of owners, (2) to appoint the Board of Managers of the Association and (3) to act as or appoint and discharge, from time to time, the Managing Agent of the Association, until seventy five percent of the Condominium Units in the Project have been conveyed by the Declarant, or June 30, 1987, whichever occurs first. During this period, each Owner shall retain all other rights and be bound by all obligations of membership in the Association. Declarant, at its sole discretion, shall have the option to terminate all or any right reserved in this Section 8.3 at any time after thirty (30) of the Units have been conveyed.

ARTICLE IX

ASSOCIATION FUNCTIONS

9.1 Management. Subject to Article X, the management and operation of the Project shall be by the Association which shall be organized and shall fulfill its functions pursuant to this Declaration, the Articles of Incorporation, the Bylaws, and the Condominium Act. The Association shall act by and through its Board, its elected officers, and its agents and employees.

9.2 Association Powers and Responsibilities. The Association, subject to the rights and duties of the Owners as set forth elsewhere in this Declaration, shall be responsible for the management, control, operation, maintenance, replacement and repair of the Common Elements as more specifically provided herein. Notwithstanding the duty of the Association

to maintain, clean, paint, landscape, repair and replace all, or part, of the Common Elements, the Association shall not be liable for injury or damage caused by any Owner or other persons. In addition, the Association may undertake on a contractual basis any activity, function or service, for the benefit of all, some or any Owners who agree to pay therefor, separate and apart from the assessments hereunder.

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

9.4 Association's Right to Lease and License General Common Elements. The Board shall have the right to lease or license or permit the use of, by less than all Owners or by non-Owners, on either a short-term basis or long-term basis and with or without charge as the Board may deem desirable, any portion of the General Common Elements, including without limitation any storage lockers within any storage area, or

any Condominium Unit owned by the Association (which Unit may be purchased from the Declarant). The rights granted to the Association in this subparagraph shall only be used in the promotion of the collective best interests of the Owners.

9.5 Restrictions. Except as provided in Articles XIV and X" hereof, unless at least seventy five percent (75%) of the First Mortgagees of Units (based upon one (1) vote for each First Mortgage owned or held) have given their prior written approval, the Association shall not be empowered or entitled to:

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

(ii) partition or subdivide any Condominium Unit;

(iii) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any of the General or Limited Common Elements; or

(iv) use hazard insurance proceeds for loss to the improvements for other than repair, replacement or reconstruction of such improvements.

9.6 Mortgage Inspection. 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, if requested in writing, notify each first Mortgagee recorded on its books of any proposed amendment of the Association's Articles of Incorporation or Bylaws or of any change in the Association's Managing Agent at least ten (10) days prior to the effective date of such amendment or change.

9.7 Promulgation of Rules and Regulations. The Board may make such rules and regulations governing the use of the Common Elements, as are, in its sole discretion, consistent with the rights and duties established in this Declaration.

9.8 Enforcement of Rules and Regulations. The Board shall have the power and authority to enforce each and every one of the provisions of this Declaration and its rules and regulations, including the power to commence and maintain an action to enjoin any breach or threatened breach of any of the provisions hereof, and enforce any assessment lien and to pay all costs of any such action or other enforcement procedure. Except as otherwise provided, each Owner shall comply strictly with the provisions of the Declaration, the Articles of Incorporation and Bylaws of the Association, and the decision, resolutions, rules and regulations of the Board adopted pursuant thereto as the same may be lawfully made and amended and/or modified from time to time. Failure to comply with any of the same shall mean that (a) the Board may suspend the Owner's voting rights in the Association during any period during which such Owner fails to comply, (b) Board may also take judicial action against the Owner to enforce compliance with such rules, regulations or other obligations, or to obtain damages for non-compliance, all to the extent permitted by law, including recovery of costs and reasonable attorney's fees, and (c) the Board may fine any Owner who violates the terms and provisions of this Declaration, a sum not to exceed Fifty Dollars (\$50.00) per occurrence and if such fine remains unpaid for ten (10) days after notice, it shall become a Unit Assessment as provided herein.

9.9 Implied Rights. The Association and the Board shall have and may exercise any right or privilege given to it expressly by this Declaration, or reasonably to be implied from the provisions of this Declaration, or given or implied by law, or which may be necessary or desirable to fulfill its duties, obligations, rights or privileges.

9.10 Interpretation. If any doubt or question shall arise concerning the true intent or meaning of any of this Declaration, the Board shall, by resolution, determine the proper construction of the provision in question and such resolution shall fix and establish the meaning, effect and application of the provision, provided however, this provision shall not apply to any such question concerning Declarant, unless Declarant has given its specific prior written authorization for the Board to make the determination.

9.11 Non-Liability of Association and Others. The Declarant, the Association and the officers, directors, and members of the Board, including without limitation the members of any committees, and agents of each of them shall not be liable in damages or otherwise to any person whomsoever for any act or omission, occurring in connection with the powers and duties hereunder, unless the act or omission is in bad faith and amounts to fraud.

ARTICLE X

MANAGEMENT

10.1 Agreements.

(a) Each Owner shall be bound by the terms and conditions of all management agreements entered into by the Board. A copy of all such agreements shall be reasonably available to each Owner. Any and all management agreements entered into by the Board shall provide that said management agreement may be cancelled by an affirmative vote of sixty percent (60%) of the votes of the Association's members. In no event shall such management agreement be cancelled prior to the effecting of a new management agreement by the Association or its Board. It shall be the duty of the Association or its Board to effect a new management agreement prior to the expiration of any prior management contract. Any and all

management agreements shall be made with a responsible party or parties having experience adequate for the management of a project of this type. Any management agreement providing for the services of Declarant or the builder of the project may not exceed three (3) years and must provide that it can be terminated without payment of a termination fee by the Board without cause upon no more than ninety (90) days written notice or with cause upon thirty (30) days written notice.

(b) Each and every management agreement made between the Association and a manager, or managing agent during the period when the Declarant controls the Association may be terminated no later than thirty (30) days after the termination of control by the Declarant of the Association. In the event the agreement is not so terminated, it shall become binding upon the Association for the duration of its term. The provisions of this paragraph shall be contained verbatim in each of such management agreements.

10.2 Other Personnel. The Board may obtain and pay for the services of such other personnel as it deems appropriate in its sole discretion.

ARTICLE XI

ASSESSMENTS

11.1 Obligation to Pay Assessments. The Declarant, for each condominium unit owned by it, and each owner of any Condominium Unit, by the acceptance of a Deed therefor, whether or not it shall be so expressed in said Deed, hereby covenants and agrees to pay, and shall be obligated to pay, to the Association annual and special assessments as established from time to time as provided in this Declaration. Such assessments, together with interest thereon, shall be fixed, established and collected in the manner hereinafter provided. The assessments levied by the Board shall be used exclusively to promote the recreation, enjoyment, health,

safety and welfare of the Owners of the Units, and for the management, operation, cleaning, repair, care, maintenance, improvement and alteration of the Common Elements which are the responsibility of the Association as provided herein. No division of any annual, special or unit assessment charge shall be made between general and limited common elements.

Any mortgagee acquiring title to a Unit through foreclosure shall not be liable for any assessments levied against the Unit prior to the acquisition of title. Any delinquent assessments which are extinguished by reason of the foreclosure sale shall be reallocated as a common expense to all Unit Owners.

11.2 Unit Assessment. In the event that the Association incurs any expense or liability as a result of the willful, negligent or wrongful act of an Owner, his family, tenants or guests, or any breach by any of such parties of any of the provisions of this Declaration, the Association's Bylaws or the Association's rules and regulations, and the same is not paid for by insurance, the cost thereof shall be an assessment against that Owner and his Condominium Unit as provided in Section 11.6 and 11.7 hereof.

11.3 Annual Assessments. The total annual assessments against all Condominium Units shall be based upon the Board's advance budget of the requirements needed by it to provide for the administration and performance of its duties during such assessment year, which sum shall specifically include, but shall not be limited to the following:

- (a) expenses of management;
- (b) taxes and special assessments (until the Condominium Units are separately assessed as provided in Article III hereof);
- (c) premiums for all insurance which the Association is required or permitted to maintain as provided in Article XIII hereof;
- (d) common lighting, heating and other common utility charges, water charges, garbage and trash collection and sewer service charges;

- (e) landscaping and care of the grounds;
- (f) such repairs and maintenance which are the responsibility of the Association; provided, however, there shall be no division of assessment charge between the expenses of Limited and General Common Elements;
- (g) any deficit remaining from a previous assessment year, or delinquent assessments which are reallocated to all Unit Owners;
- (h) the creation of a working capital fund; and
- (i) any other costs, expenses and fees, including legal and accounting, which may be incurred or may reasonably be expected to be incurred by the Board for the benefit of the Owners under or by reason of this Declaration.

11.4 Special Assessments. In addition to the Annual Assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part:

- (a) The cost of any construction, reconstruction, repair or replacement of all or part of the Project; or
- (b) The expense of any other contingencies or unbudgeted costs.

11.5 Procedure for Special Assessments Under Section 11.4. Written notice of any meeting called for the purpose of taking any action authorized under Section 11.4 shall be sent by the Board to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. Said notice shall specify the amount of the assessment and the date, place and time of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not present, the meeting may be adjourned to a date not less than ten (10) days later, notice of same being sent to all Owners, and the

required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. Such subsequent meeting shall not be held more than thirty (30) days following the preceding meeting. Any such assessment shall require the affirmative vote of two-thirds (2/3) of the votes which are cast at such a meeting where a quorum is present.

11.6 Payment of Assessments.

(a) Amounts. Any amounts assessed as annual or special assessments shall be assessed to each Owner in equal shares. Unit assessments upon any individual Condominium Unit shall be payable fully and solely by the Owner thereof.

(b) Payment Dates.

(i) Annual Assessments. The first annual assessment provided for herein shall commence as to each Condominium Unit on the day when the first Condominium Unit is conveyed by the Declarant, and the monthly installment shall be prorated accordingly from that day. On October 1, 1984, and on each anniversary thereafter (unless the Board determines to use a calendar year or other twelve month period), the Board shall establish the amount of the annual assessment against each Condominium Unit for the following year. Written notice of any change of the annual assessment shall be sent to every Owner subject thereto. One-twelfth (1/12) of the annual assessment for each Condominium Unit shall be payable in advance on the first day of each month.

(ii) Unit Assessments and Special Assessments.

Unit Assessments and Special Assessments shall be due and payable on the date specified by the Board in written notice to each Owner.

(c) Notice. Failure of the Board to give timely notice of any assessment as provided herein shall not affect the liability of the Owner of any Condominium Unit for such assessment, but the date when payments shall be due in such case shall be deferred to a date after such notice shall have been given.

(d) Estoppel Certificate. The Board shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Condominium Unit have been paid. Said certificate shall be conclusive evidence of the payment of any assessments therein stated to have been paid.

(e) Initial Fee. The Board shall require the first Owner of each Condominium Unit, at the time of conveyance from Declarant, to make a one time payment in the amount equal to three months estimated Association dues, which sum shall be placed in a segregated fund to be used for working capital. Such payment shall not relieve an Owner from making any regular monthly payment of the annual assessment as the same comes due and shall not be refundable.

11.7 Liens for Assessments.

(a) Fifteen (15) days after any assessment shall be due and payable, if unpaid or otherwise unsatisfied, the same shall become delinquent, and together with interest thereon at the rate of eighteen percent (18%) per annum from the date the assessment was due and payable, a late charge of Fifteen Dollars (\$15.00), costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Condominium Unit against which each such assessment is made. All payments on account shall be first applied to interest, the late charge, any costs or fees, and then to the assessment payment first due.

(b) Each such assessment, together with interest, late charge, costs and reasonable attorney's fees, shall also be the personal obligation of each person or persons who are the Owner or Owners of such Condominium Unit at the time when the assessment became due, and, in case of multiple Owners of a Condominium Unit, each Owner shall be individually,

jointly and severally liable for such assessment. An Owner's grantee shall be jointly and severally liable with that Owner for any assessment unpaid at the time of transfer, but without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

(c) The Board may bring an action at law against any Owner personally obligated to pay the delinquent installments. In addition to such action or as an alternative thereto, the Board may file with the Clerk and Recorder of El Paso County a statement of lien with respect to the Condominium Unit setting forth the name of the Owner, the legal description of the Condominium Unit, the name of the Association, the amount of delinquent assessments then owing, and any interest, late charges and reasonable attorney's fees, which statement shall be duly signed and acknowledged by an officer or authorized agent of the Association, and notice of which shall be mailed to the Owner of the Condominium Unit, at the address of the Unit or at such other address as the Association may have in its records for the Owner of the Condominium Unit. Such a claim of lien shall also secure all assessments which come due thereafter until the lien, together with all costs, attorney's fees, late charges and interest have been fully paid or otherwise satisfied. Thirty (30) days following the mailing of such notice, the Board may proceed to foreclose the statement of lien in the same manner as provided for the foreclosure of mortgages under the statutes of the State of Colorado (such lien shall be in favor of the Association and shall be for the benefit of all other Condominium Unit Owners). The lien of the assessments provided for herein shall be subordinate to the lien of any real estate taxes and any recorded First Mortgage. However, the lien of such assessments shall be

superior to any homestead exemption as now or hereafter may be provided by Colorado or Federal law and this clause constitutes a waiver of such homestead. In either a personal or foreclosure action, the Board, shall be entitled to recover as a part of the action the interest, late charges, costs and reasonable attorneys' fees with respect to the action. The Board, acting on behalf of the Owners, shall have the power to bid on the Unit at any foreclosure sale and to acquire, hold, lease, mortgage, and convey the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements by abandonment of his Condominium Unit, or by any claims against the Declarant or his agent.

(d) The holder of any First Mortgage upon a Condominium Unit may request that the Association notify it, in writing at its specified address, of any default by the Owner of said Unit in paying assessments or performing other obligations under this Declaration.

11.8 Assessment of Declarant. Notwithstanding anything herein to the contrary, Declarant shall pay, as to all units under construction at the time of the first annual assessment (when the first unit is conveyed) and until certificates of occupancy are issued to such units, fifty percent (50%) of regular monthly installments paid by owners, other than Declarant, of Condominium Units, and, when a certificate of occupancy is issued, 100% of regular monthly installments until the Unit or Units are sold.

Within sixty (60) days of the conveyance of the first unit, the Declarant shall pay each unsold unit's share of the working capital fund to the owner's association and thereafter the Declarant shall be reimbursed for such payment from funds collected at closing when the unsold units are sold.

ARTICLE XII

MAINTENANCE AND REPAIR12.1 Owner's Responsibilities.

(a) Total Responsibility. An Owner shall be responsible, at his sole expense, for the maintenance, repair, replacement, alteration and remodeling of the following: (i) interior non-supporting walls, floors and ceilings of his Unit and the materials thereof, including but not limited to, plaster, gypsum, dry wall, paneling, woodwork, wallpaper, paint, carpet, wall and floor tile and flooring, which make up the finished surfaces of the perimeter walls, ceiling and floors within the Unit; (ii) all interior and exterior doors, screens, windows and window fixtures, (iii) all cabinets, kitchen and bathroom fixtures and equipment, and built-in appliances; (iv) all light, plumbing, furnace, air conditioning, hot water heater and heating improvements, if any, which are for the exclusive use of his Unit, and the related hardware, except for lines or pipes to the extent they are located or run through the ceilings, floors or walls of the Building's structure, which lines or pipes shall be the Association's responsibility as herein provided, (v) all utility lines, pipes, conduits, equipment and fixtures from the point where they enter the Unit, and (vi) the balcony or patio which forms a part of his Unit.

(b) Limited Responsibility. In addition, each Owner shall be responsible to keep and maintain, at his sole expense, in good repair and a clean sanitary condition, his Limited Common Elements including without limitation any garage or carport assigned to his Unit. Such responsibility shall not include replacement, repainting, alteration or structural repairs thereto, which shall be the responsibility of the Association.

(c) Owner's Failure. If Owner fails to fulfill his responsibilities under paragraphs (a) and (b) of this Section, the Board may, at its option, take such action as

it deems appropriate, including performing the Owner's obligations, and any costs resulting therefrom shall be an assessment against such Unit and shall be due and payable by the Owner thereof.

(d) Other Maintenance. All other maintenance or repairs to any Common Elements, as prescribed by Section 5.3 hereof, except as caused or permitted by the negligence, misuse, or neglect thereof by Owner, his family, guests, tenants, contractors, agents or employees, shall be a common expense of all of the Owners. It shall further be the responsibility of the Owner to promptly report to the Association any defect or need for repairs which would be the responsibility of the Association.

(e) Restrictions. An Owner shall not do any act or work which might impair the structural soundness or integrity of the Building or impede any easement or right of way. All repair, replacement and maintenance under this Section shall result in improvements comparable in quality and materials as to those conveyed by Declarant. Except as provided in Paragraph (a) above, an Owner shall not be responsible for the lines, pipes, wire conduits or utility systems running through his Unit which serve one or more other Units, except as a tenant in common with the other Owners. Such utilities shall not be disturbed or relocated by an Owner without the written consent and approval of the Board. Nothing contained in this Section shall relieve an Owner of the obligations imposed by Article VII hereof. An Owner shall not be obligated to undertake any repairs or replacements for which the Association receives insurance proceeds.

12.2 Association's Responsibilities. The Association shall have the duty of maintaining, repairing and replacing the following:

(a) All of the Common Elements which are not the Owner's responsibility under Section 12.1; such repair and maintenance shall include, but not be limited to, exterior maintenance as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior Building surfaces, trees, grass, roads, driveways, parking areas and carports, walks and other exterior improvements;

(b) All utilities serving more than one Unit (to the extent not maintained or repaired by the utility company);

(c) Any part of the structure of any Building;

(d) Any damage caused to a Condominium Unit or Limited Common Element by any defect, occurrence or condition of the General Common Elements;

(e) Building elevators;

(f) The exercise facility;

(g) Any damage for which the Association receives insurance.

The Association's responsibility under subparagraph (d) shall include restoration of the Unit, together with any kitchen cabinets, kitchen fixtures, bath fixtures and carpeting to a condition comparable to that when the Unit was conveyed by Declarant.

> first owner

The Board shall engage and pay for, from Association funds, all labor and materials as may be necessary for the work for which the Association is responsible. The Board and its authorized representative shall have the right to enter upon the exterior, and at reasonable times, the interior of any Unit, for inspection or performance of such work. The cost of such maintenance and repair of any incidental damage caused to a Unit by such work shall be a Common Expense of all of the Owners and assessed as provided herein for annual or special assessments, unless, however, the need for maintenance or repair is caused by the willful or negligent act of the Owner, his family, guests or tenants,

in which case the cost of such maintenance or repairs shall be an assessment against such Owner and his Condominium Unit as provided herein. The Board shall determine in its sole discretion, whether an Owner, his family, guests or tenants were negligent or at fault. The Board or its authorized representative is hereby authorized to act for any Owner in his absence when, in the sole discretionary opinion of the Board or its authorized agent, an emergency exists or damage to other Condominium Units is eminent; the cost of such action shall be a common expense except as provided above.

ARTICLE XIII

INSURANCE

13.1 Authority to Purchase. Except as provided herein, all insurance policies upon the Project (except title insurance and as hereinafter allowed) shall be purchased by the Board for the benefit of the Association and the Owners and their respective Mortgagees as their interests may appear, and provision shall be made for the issuance of certificates of mortgagee endorsements to the holders of First Mortgages on the Condominium Units or any of them, and, if insurance companies will agree, shall provide that the insurer waives its right of subrogation as to any claims against Owners, the Association, and their respective servants, agents and guests. All such policies and endorsements thereon shall be kept by the Association as insurance trustee. All insurance policies shall, to the extent obtainable, involve standard premium rates as established by the Colorado Insurance Commissioner, be written with companies licensed to do business in the State of Colorado and having a Best's Insurance Report rating of A, or better, and cover the risks set forth below in Section 13.3.

13.2 Owner's Responsibility. It shall be the responsibility of the Owners, and at their expense, to make arrangements in regard to title insurance on their Condominium

Unit, for all insurance on their personal property including without limitation, furniture, carpet, draperies, oven, range, refrigerator, wallpaper, disposals, appliances, fixtures, and furnishings, and or public liability insurance covering their individual Unit, and, in addition, the Owner may obtain such other and additional insurance coverage on and in relation to his Condominium Unit as he, in his sole determination, shall conclude to be desirable; provided, however, that none of such insurance shall affect the coverage obtained by the Association, nor cause the diminution or termination thereof. Any such insurance obtained by an Owner shall waive the particular insurance company's right of subrogation against the Association and the other Owners.

13.3 Coverage.

(a) Casualty. All Buildings and improvements upon the Property and all personal property included in the Common Elements, together with all lights, bathroom and kitchen fixtures, cabinets, carpeting, and appliances initially installed in all Units by the Declarant, shall be insured in an amount equal to One Hundred Percent (100%) of the replacement value thereof, excluding foundation and excavation costs, as determined annually by the Board of Managers of the Association. Such coverage shall afford protection against:

(1) Loss or damage by fire and other hazards covered by the standard extended coverage endorsement.

(2) Such other risks as from time to time shall be customarily covered with respect to Buildings similar in construction, location and use as the Buildings on the land including, but not limited to, vandalism and malicious mischief.

(3) Such insurance shall specifically cover any damage caused by or emanating from the Common Elements, including without limitation any such damage to an Owner's personal property described in Section 13.2 above.

(b) Public Liability. Public liability and Property damage in such amounts and in such forms as shall be required by the Board of Directors of the Association, including, but not limited to hired automobile and non-owned coverages. In no event shall the limits of such insurance be less than \$1,000,000.00 for bodily injury to any one person, per occurrence, and \$1,000,000.00 for property damage arising out of any one occurrence. However, such policy shall not cover the individual liability of an Owner arising from occurrences within his own Unit.

(c) Workmen's Compensation. Workmen's Compensation, or similar insurance with respect to its employees in the amounts and form sufficient to meet the requirements of law, shall be acquired by the Association.

(d) Officers' and Directors' Personal Liability Insurance. Appropriate officers' and directors' personal liability insurance may be obtained by the Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and directors in behalf of the Association.

(e) Fidelity Insurance. The Association shall purchase, in an amount not less than One Hundred Fifty percent (150%) of the Association's estimated annual operating expenses and reserves, fidelity coverage against dishonesty of employees, destruction or disappearance of money or securities and forgery. Said policy shall cover any person or entity handling funds of the Association, including, but not limited to, employees of the professional managers and shall name the Association as an obligee and shall also contain endorsements thereto covering any persons who serve the Association without compensation.

(f) Other Insurance. The Association may obtain such other insurance as the Board shall determine from time to time to be desirable, with respect to the Association's responsibilities and duties.

13.4 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association and charged as a Common Expense, to be paid by monthly assessments levied by the Association. The portion of the assessment to be used to pay premiums shall be held in a separate trust account of the Association and used solely for the payment of the premiums for insurance.

13.5 Proceeds. All insurance policies purchased by the Board shall be for the benefit of the Association and the Owners and their mortgagees as their interests may appear and shall provide that all proceeds covering property losses shall be paid to the Association in trust for the purposes set out herein.

13.6 Responsibilities of Insurance Trustee. The duty of the Association shall be to receive such proceeds as are paid and to hold them in trust for the benefit of the Owners and Mortgagees as follows:

(a) Common Elements. All insurance proceeds resulting from damage to the Common Elements shall be held in trust for the Owners and the First Mortgagees as their interests may appear.

(b) Units. Proceeds on account of damage to Units shall be held for the Owners of damaged Units in proportion to the cost of repairing the damage suffered by each Owner, which costs shall be determined by the Board. In the event a mortgagee endorsement has been issued as to a Unit, the share of the Owner's proceeds shall be held in trust for the Mortgagee and the Owner as their interests may appear.

(c) Disbursement of Proceeds. The Board, as Insurance Trustee, shall disburse the net proceeds of all insurance policies arising out of such casualty to the contractors engaged in the repair and reconstruction in appropriate progress payments.

13.7 Endorsements. All policies of insurance to the extent obtainable shall contain cross-liability endorsements to cover the liabilities of the Owners as a group to an Owner, waivers of subrogation and waivers of any defense based on invalidity arising from the acts of an Owner and shall provide that such policies may not be cancelled or modified without at least thirty (30) days prior written notice to all of the insureds including the first Mortgagees. Certificates, endorsements or duplicate originals of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered to all first Mortgagees upon request at least ten (10) days prior to the 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~~ the Owners, and shall identify the interest of each Owner (Owner's name and Unit number designation) and the First Mortgagee.

13.8 Appraisal. Prior to obtaining any policy of fire insurance or renewal thereof, the Board or the Managing Agent may obtain an appraisal from a duly qualified real estate or insurance appraiser, which appraiser shall reasonably estimate the full replacement value of the entire Project, without deduction for depreciation, for the purpose of determining the amount of the insurance required pursuant to the provisions of this Article. Determination of maximum replacement value may be made annually, or less often as directed by the Board, by one or more written appraisals to be furnished by a person knowledgeable of replacement cost, and each First Mortgagee shall be furnished upon request

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.

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

13.10 Amount of Loss. In the event that there shall be any damage or destruction to, or loss to a Condominium Unit which exceeds \$1,000.00 or any damage or destruction to, or loss to the Common Elements which exceeds \$10,000.00, then notice of such damage or loss shall be given by the Association to each first Mortgagee of said Unit within ten (10) days after the occurrence of such event.

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

ARTICLE XIV

ASSOCIATION AS ATTORNEY IN FACT

This Declaration does hereby make mandatory the irrevocable appointment of the Association as attorney in fact to deal with the Project in the event of its destruction, damage,

obsolescence or condemnation, including the repair, replacement and improvement of any Units, Buildings, Common Elements or other portion of the Project which have been so destroyed, damaged, condemned or which becomes obsolete. 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 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 as their true and lawful attorney in their name, place and stead, for the purpose of dealing with the Project upon its damage, destruction, obsolescence or condemnation as is hereinafter provided. As attorney in fact, the Association, by its President and Secretary or Assistant Secretary, or its duly authorized officers and agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary and appropriate to exercise the powers herein granted. In the event that the Association is dissolved or becomes defunct, a meeting of the Owners shall be held within thirty (30) days after either such event. At such meeting, a new attorney in fact, to deal with the Project upon its destruction, damage, obsolescence, or condemnation shall be appointed. Said appointment must be approved by the Owners representing an aggregate ownership of seventy-five percent (75%) of the First Mortgagees of the Condominium Units. Repair and reconstruction of the improvements means restoring the improvement(s) 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, and all improvements being reconstructed or repaired in substantial conformance with the Project's original architectural plan and scheme to the extent then reasonably and economically feasible. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration, reconstruction or replacement unless Owners representing an aggregate ownership of seventy five percent (75%) or more and at least seventy five percent (75%) of the First Mortgagees agree not to rebuild in accordance with the provisions hereinafter set forth.

ARTICLE XV

DESTRUCTION, DAMAGE OR OBSOLESCENCE

15.1 Insurance Proceeds Sufficient. In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as attorney in fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed. The Association shall have full authority, right and power as attorney in fact to cause the repair and restoration of the improvement(s). Assessments for common expenses shall not be abated during the period of insurance adjustments and repair and reconstruction.

15.2 Insurance Proceeds Insufficient.

(a) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than seventy five percent (75%) of the total replacement cost of all of the Condominium Units in this Project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney in fact, using the proceeds of insurance and the proceeds of a special assessment to be made against all of the Owners and their Condominium Units. Such special assessment shall be a common expense and made according to each Owner's Proportionate Interest 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, replacement or restoration of the improvement(·) 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 XI. In addition thereto, the Association, as attorney in fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association, as attorney in fact, pursuant to the provisions of this Section. Assessments for the Common Expenses shall not be abated during the period of insurance adjustment and repair and reconstruction. The delinquent Owner shall be required to pay to the Association the costs and expenses for filing the notice, late charge, interest at a rate of eighteen percent (18%) per annum, on the amount of the assessment and all reasonable attorney's fees. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as attorney in fact, in the following order:

- (1) For payment of the balance of the lien of any First Mortgagee;
- (2) For payment of taxes and special assessments liens in favor of any assessing entity and the customary expenses of sale;
- (3) For payment of unpaid Common Expenses and all costs, expenses and fees incurred by the Association;

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

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

(b) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is more than seventy five percent (75%) of the total replacement cost of all of the Condominium Units in this Project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney in fact, using the proceeds of insurance and the proceeds of a special assessment to be made against all of the Owners and their Condominium Units, provided, however, that Owners representing an aggregate ownership interest of seventy five percent (75%) or more of the Common Elements and at least seventy five percent (75%) of 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 Section, 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 Bylaws. Assessments for Common Expenses shall not be abated during the period prior to sale. The insurance proceeds shall be divided by the Association according to each Owner's Proportionate Interest, 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 Owner's Proportionate Interest. 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 subsections (1) through (5) of Section 15.2(a). In the event that the damage is to be repaired or reconstruction is to be made, then the provisions of Section 15.2(a) shall apply.

15.3 Obsolescence.

(a) The Owners representing an aggregate Proportionate Interest of seventy five percent (75%) or more may agree that the Common Elements are obsolete and adopt a plan for the renewal and reconstruction. If a plan for the renewal or reconstruction is adopted, notice of such plans shall be recorded, and the expenses of renewal and reconstruction shall be payable by all of the Owners as a Common Expense, whether or not they have previously consented to the plan of renewal and reconstruction. The Association, as attorney in fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association. The delinquent Owner shall be required to pay to the Association the costs and expenses

for filing the notices, interest at the rate of eighteen percent (18%) per annum, and all reasonable attorney's fees. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as attorney in fact, for the same purposes and in the same order as is provided in subsection (1) through (5) of this Section 15.2(a).

(b) The Owners representing an aggregate Proportionate Interest of seventy five percent (75%) or more, may agree that the Condominium Units are obsolete and that the same should be sold. Such plan or agreement must have the approval of seventy five percent (75%) of the First Mortgagees of the Condominium Units. 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 project shall be sold by the Association, as attorney in fact, for all of the Owners, free and clear of the provisions contained in this Declaration, the Map, the Articles of Incorporation and the Bylaws. The sale proceeds shall be apportioned among the Owners on the basis of each Owner's Proportionate Interest and such apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium Unit. Each such account shall be in the name of the Association and shall be further identified by the Condominium Unit designation and the name of the Owner. From each separate account, the Association, as attorney in fact, shall use and disburse the total amount of each of such accounts, without contribution from one account to another, for the same purposes and in the same order as is provided in subsections (1) through (5) of Section 15.2(a).

ARTICLE XVI
CONDEMNATION

16.1 Consequences of Condemnation. If at any time or times during the continuance of the condominium ownership pursuant to this Declaration, all or part of the Condominium Project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provision of this Article shall apply:

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

(b) Complete Taking.

(1) In the event that the entire Project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership pursuant hereto shall terminate. The Condemnation Award shall be apportioned among the Owners on the same basis of each Owner's Proportionate Interest, provided, however, that if a standard different from the value of the Property as a whole is employed as the measure of the Condemnation Award in the negotiation, judicial decree or otherwise, ~~then, in~~ ining such shares, the same standard shall be employed to the extent it is relevant and applicable.

(2) On the basis of the principle set forth in the last preceding paragraph, the Association shall as soon as practicable determine the share of the condemnation award to which each Owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner provided in Section 15.2 (a)(1) through (5).

(c) Partial Taking. In the event that less than the entire Condominium Project is taken or condemned, sold or otherwise disposed of in lieu of or in avoidance thereof,

the condominium ownership hereunder shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner: As soon as practicable the Association shall reasonably and in good faith, allocate the Condemnation Award between compensation, damages or other proceeds and shall apportion the amounts among the Owners as follows: (a) the total amount allocated to the taking of or injury to the Common Elements shall be all apportioned among the Owners on the basis of each Owner's Proportionate Interest; (b) the total amount allocated to severance damages shall be apportioned to those Condominium Units which were not taken or condemned; (c) the respective amounts allocated to the taking of or injury to a particular Unit and to the improvements an Owner has made within his own Unit shall be apportioned to the particular 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 in the circumstances. If the allocation of the Condemnation Award is already established in negotiations, judicial decree or otherwise, then in allocating the Condemnation Award, the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be disbursed as soon as practicable in the same manner provided in Section 15.2(a) (1) through (5).

(d) The Association shall timely notify each First Mortgagee of any Condominium Unit of the commencement of the condemnation proceedings or eminent domain proceedings and shall notify said mortgagees in the event of the taking of all or any part of the Common Elements, if the value of the Common Elements taken exceeds \$10,000.00.

16.2 Reorganization. In the event a partial taking results in the taking of a complete Unit, the Owner thereof automatically shall cease to be a member of the Association,

shall cease to hold any right, title or interest in the remaining common elements and shall execute any and all documents necessary to accomplish the same. Thereafter, the Association shall reallocate the ownership, voting rights and assessment ratio 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 and of First Mortgagees of remaining units for amendment of this Declaration as provided in Article XVII.

16.3 Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Article XV.

ARTICLE XVII

AMENDMENT OF DECLARATION

17.1 Amendment.

(a) The covenants and restrictions of this Declaration shall run with and bind the land, until such time as this Declaration is terminated, amended, or revoked in the manner herein provided.

(b) Except as is otherwise provided in Article XVI, this Declaration shall not be revoked unless all the Owners and all First Mortgagees consent and agree to such revocation by an instrument duly recorded. This Declaration shall not be amended unless the Owners representing an aggregate Proportionate Interest of at least sixty-seven percent (67%) and First Mortgagees representing votes of unit estates that are subject to mortgages held by eligible holders agree to such amendment by duly executing it and recording it in the office of the Clerk and Recorder of El Paso County, Colorado; provided, however, an Owner's Proportionate Interest in the Common Elements appurtenant to each Unit as set forth in Exhibit "B" thereto, shall have a permanent character and shall not be altered without the consent of all of the Owners and all of the First Mortgagees of Condominium Units as expressed in an amendment hereto duly recorded and provided further, any provision of this

Declaration which requires the consent or approval of a particular percentage of Owners and/or Mortgagees may be amended only with the prior written consent of that percentage of those parties. ▶

(c) Notwithstanding any provision to the contrary, the Declarant hereby reserves, until seventy-five percent of the condominium units have been conveyed by Declarant or until June 30, 1987, whichever occurs earlier, the right and power to make and record an Amendment to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may perform in the future) functions similar to those currently performed by such entities (ii) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee First Mortgages covering Condominium Units and/or (iii) to correct any typographical or clerical errors herein. In furtherance of the foregoing a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to such amendment on behalf of each Owner. Each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Condominium Unit and the acceptance thereof, shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power of the Declarant to make, execute and record such Amendments. Any such Amendment by Declarant shall be ineffective to affect or impair the lien of any First Mortgage upon a Condominium Unit or any warranties made by an Owner or First Mortgagee in order to induce any of the above agencies or entities to make, purchase, insure or guarantee the First Mortgage on such Owner's Condominium Unit.

(d) The consent(s) of any junior mortgagee shall not be required under the provisions of this Article. In determining whether the appropriate percentage of mortgagee ~~approval is necessary, the First Mortgagee shall have one~~ (1) vote for each First Mortgage owned.

ARTICLE XVIII

GENERAL PROVISIONS

18.1 Acceptance of Provisions of All Documents/Waiver of Homestead. The conveyance or encumbrance of a Condominium Unit shall be deemed to include the acceptance of all of the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association and the waiver of any homestead rights and any exemptions under any state or federal law and be binding upon each grantee and mortgagee without the necessity of inclusion of such an express provision in the instrument of conveyance or encumbrance.

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

18.3 Severability. The provisions of this Declaration shall be deemed to be independent and severable and if any of the provisions of this Declaration or any clause, paragraph, sentence, phrase or word, or the application thereof, in any circumstances be invalidated by judgment or Court Order, such invalidity shall not affect the validity of the remainder of the Declaration, which other provisions shall remain in full force and effect.

18.4 Conflict. In the event there should be any conflict between the provisions of this Declaration and the Articles of Incorporation of the Association and any Bylaws or rules or regulations of the Association, the provisions of this Declaration shall be deemed controlling. In case of conflict between the Articles of Incorporation and the

Bylaws, the Articles of Incorporation shall control. The provisions of this Declaration shall be in addition to and supplemental to the Condominium Act and to all other provisions of law.

18.5 Notice. Unless otherwise specified herein or by law, any notice to an Owner shall be given by mailing such notice, certified mail, return receipt requested, to such Owner at the address of his Unit.

18.6 Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the singular and the use of any gender shall include all genders.

18.7 Captions. The captions to the Articles and Sections are inserted herein only as a matter of convenience and for reference, and are in no way to be construed to define, limit or otherwise describe the scope of the Declaration nor the intent of any provisions hereof.

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

18.9 No Waiver. Failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration.

18.10 Governing Law. This Declaration of Covenants, Conditions and Restrictions shall be governed by, and construed in accordance with, the laws of the State of Colorado.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal on the day and year first above written.

DECLARANT:

W. D. RITCHIE DEVELOPMENT
COMPANY

By: W.D. Ritchie