

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
BASALT CENTER SUBDIVISION

This Declaration of Covenants, Conditions and Restrictions is made this 24th day of October, 1976 by ISI INVESTMENT GROUP, a Colorado partnership (hereinafter "Declarant"),

R E C I T A L S:

A. Declarant is the owner of the real property in the County of Eagle, State of Colorado, which is more particularly described on Exhibit "A" attached hereto and by this reference incorporated herein, which described real property is sometimes hereinafter referred to as the Property.

B. This Declaration is made and recorded by Declarant for the following purposes:

(1) Protect the property owners and their tenants against such improper use of surrounding premises and buildings as will depreciate the value of their property or restrict the successful operation of their businesses.

(2) Encourage the erection of attractive permanent improvements, built of suitable materials with adequate quality and methods of construction, appropriately located to insure a harmonious appearance and function.

(3) Provide in general a harmonious commercial environment that will promote the continuing general welfare of the property owners and their tenants of the Basalt Center Subdivision.

D E C L A R A T I O N:

NOW, THEREFORE, Declarant hereby declares that all of the real property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting a harmonious commercial environment and the value, desirability and attractiveness of the real property. These ease-

ments, covenants, restrictions and conditions shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the real property or any part thereof, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

1.1 Declarant: "Declarant" shall mean ISI Investment Group, a Colorado partnership, and its successors and assigns.

1.2 Association: "Association" shall mean The Basalt Center Association, a Colorado nonprofit corporation, and its successors.

1.3 Owner: "Owner" shall mean the record owner, whether one or more persons or entities, of the entire fee simple title to any Lot which is part of the Property including Declarant and contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

1.4 Member: "Member" shall mean any person or entity who is a member in the Association.

1.5 Lot: "Lot" shall mean a unit of land which is designated as a Lot on the recorded subdivision plat for Basalt Center Subdivision.

1.6 Building Site: "Building site" shall mean a plot of land the size and dimensions of which shall be established by Declarant at the time of the original conveyance from Declarant to the first Owner of a Lot. A building site shall be established by Declarant by any instrument in writing executed, acknowledged and recorded by Declarant which designates a plot of land within a Lot as a building site for purposes of these Covenants. If two or more Lots are acquired by the same Owner, two or more building sites may, by agreement of Declarant and Owner, be combined and treated as a single Building Site for purposes of this Declaration of Covenants.

1.7 Improvement: "Improvement" shall mean and include all buildings and enclosed areas capable of commercial use or occupancy

but shall not include parking areas, driveways, access roads, loading areas, signs, utilities, fences, lawns and landscaping.

1.8 Common Area: "Common Area" shall mean all of the Property now or hereafter owned by the Association and designated as Common Area on the recorded subdivision plat for Basalt Center Subdivision.

ARTICLE II

MEMBERSHIP

Every Owner as defined in Article I, Section 1.3 under this Declaration shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lots shall be the sole qualification for membership.

ARTICLE III

VOGING RIGHTS

The Association shall have two classes of voting membership:

Class A: Class A Members shall be all of the Owners with the exception of Declarant. Class A Members shall be entitled to that number of votes for each Lot then owned in the Property according to the following schedule:

Lot A	290	Lot G	56
Lot B	53	Lot H	56
Lot C	88	Lot I	56
Lot D	88	Lot J	56
Lot E	33	Lot K	56
Lot F	56	Lot L	56
		Lot M	56

When more than one person owns any Lot, all such persons shall be Members; provided, however, that the votes for such Lot shall be exercised as the several Owners among themselves determine, but in all events the number of votes for each Lot shall be cast as a unit.

Class B: The Class B Member shall be the Declarant. The Class B Member shall be entitled to three times the votes for each Lot as shown on the above schedule which it then owns in the Property, provided that, the Class B Membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(b) December 31, 1981.

ARTICLE IV

PROPERTY RIGHTS

4.1 Owners' Easements of Enjoyment: Every Owner shall have a right and easement of enjoyment in and to the Common Area and such right and easement shall be appurtenant to and shall pass with the title to every Lot. Such right and easement of enjoyment in and to the Common Area shall be subject to the following:

(a) The right of the Association to collect rent, money or charges upon a cost basis for the use of any facility situated upon the Common Area.

(b) The right of the Association, in accordance with its Articles and By-Laws to borrow money for the purpose of improving the Common Area and facilities thereon and in aid thereof to mortgage or grant other security interests in the Common Area; provided, however, that the rights of any mortgagee shall be subject to the rights of the Owners and the Association while any mortgage or deed of trust is current and not in default, and further provided that no funds may be borrowed nor shall any mortgage or deed of trust be given unless an instrument signed by persons then having two-thirds (2/3) of the votes of each class of Members and by seventy-five percent (75%) of the first mortgagees of the Lots (based

upon one vote for each mortgage) agreeing to such action has been recorded with the Clerk and Recorder of Eagle County.

(c) The right of individual Owners, their tenants, customers, and invitees, to ingress and egress across the Common Area to the Owner's Lot and parking for customers, invitees and guests on the Common Area.

(d) The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid.

(e) The right of the Association to dedicate or transfer all or any part of the Common Area, subject to the ingress and egress requirements of this Section 4.1, to any public agency, authority, utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument is signed by Members entitled to cast two-thirds (2/3) of the votes of the Members. Declarant shall have the right at any time to use so much of the Common Area as it may deem reasonably necessary and advisable for the purpose of aiding in the construction and development of the unimproved Lots and Common Area, and the maintenance and repair of the same; provided, however, that such use may not unreasonably interfere with an Owner's use and access to the Common Area, nor with an Owner's right of ingress and egress to his Lot.

(f) The terms and conditions of that certain Lease Agreement dated July 30, 1974 by and between Aspen-Basalt Co., a general partnership, and City Market, Inc., a Colorado corporation.

4.2 Delegation of Use: Any Owner may delegate, in accordance with the Articles and By-Laws, his right of enjoyment to the Common Area and facilities thereon to such Owner's tenants.

4.3 Title to the Common Area: Declarant will convey fee simple title to the Common Area to the Association, free and clear

of all encumbrances and liens.

4.4 Alienation of Common Area: Except as in this Declaration provided, the Common Area shall not be sold, abandoned, subdivided, hypothecated, transferred or otherwise encumbered by the Association without the prior written consent and approval of all Owners and all first mortgagees of each Lot within the property.

4.5 Leases: An Owner shall have the right to lease his Lot provided that such lease is in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, and the Association's Articles and By-Laws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease.

ARTICLE V

GENERAL RESTRICTIONS

5.1 Limitations and Restrictions: The Property shall be held, conveyed, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

(a) Antennas. Except for any which may, at Declarant's option, be erected by Declarant or Declarant's designated representative, no exterior radio or television antenna or aerial shall be erected or maintained in the Property without the prior written approval of the Architectural Committee.

(b) Insurance Rates. Nothing shall be done or kept in the Property which will increase the rate of insurance on any of the Common Area without the approval of the Association, nor shall anything be done or kept in the Property which would result in the cancellation of insurance on any of the Common Area or which would be in violation of any law.

(c) No Further Subdividing. No Lot shall be further divided or subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Architectural

Committee; provided, however, that when Declarant is the Owner

thereof, Declarant may further divide and subdivide any Lot and convey any easement or other interest less than the whole, all without the approval of the Architectural Committee; and provided, further, that nothing herein shall prohibit transfer or sale of any single Lot, including Improvements thereon, to more than one person to be held by them as tenants in common or joint tenants, or for the granting of any mortgage or deed of trust.

(d) Signs. No sign of any kind shall be displayed to the public view without the approval of the Architectural Committee; provided, however, that signs not more than three feet by two feet may be displayed on or from a Lot advertising the premises for sale or lease.

(e) Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any property within the Property and no odors shall be permitted to arise therefrom so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon any such property so as to be offensive or detrimental to any other property or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any such property without the prior written approval of the Board.

(f) Repair of Buildings. No Improvement constructed upon any Lot within the Property shall be permitted to fall into disrepair, and each such Improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof.

(g) Improvements and Alterations. There shall be no construction other than repairs pursuant to Section 5.1(f), above, or excavation, or alteration which in any way alters the exterior appearance of any Improvement, or removal of any Improvement without the prior approval of the Architectural Committee.

(h) Violation of Association Rules. There shall be no violation of the Association Rules once adopted by the Association and made available to the persons affected thereby. If any Owner or any guest, licensee, lessee or invitee of such Owner or his family violates the Association Rules, the Association may invoke any one or more of the following remedies:

(a) impose a fine upon such Owner of not more than Fifty Dollars for each violation; (b) suspend the right of such Owner to vote; (c) cause the violation to be cured and charge the cost thereof to such Owner; and (d) obtain injunctive relief against the continuance of such violation. Before invoking any such remedy, the Association shall give such Owner notice of the alleged violation and opportunity to be heard except that the Association may suspend the right of any Owner to vote without an additional notice and hearing for any period during which any fine or charge imposed under this Section 5.1(h) is past due and unpaid. Any fine or charge imposed under this Section 5.1(h) which remains unpaid for a period of ten days or more, shall become a lien upon the Owner's Lot upon its inclusion in a recorded notice thereof and may be collected as provided in Article VIII below for the collection of other assessments.

(i) Drainage. There shall be no interference with the established drainage patterns over any property within the Property, except by Declarant, unless adequate provision is made for proper drainage and approved by the Architectural Committee.

(j) No Hazardous Activities. No activities shall be conducted on any property and no improvements constructed on any property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any property; and no open fires shall be lighted or permitted on any property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace.

(k) No Temporary Structures. No tent or shack or other temporary building, improvement or structure shall be placed upon any property, except that temporary structures necessary for storage of tools and equipment and for office space for architects, builders and foremen during actual construction may be maintained with the prior approval of Declarant, such approval to include the nature, size and location of such structure.

(l) No Mining and Drilling. No property shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate or earth, except that Declarant or the Association may, by appropriate written permit, grant, license or easement, allow the drilling of wells and the installation of infiltration galleries for the extraction of water; and except that Declarant or the Association may, by appropriate written permit, grant, license or easement, allow any of the foregoing activities to the extent permitted by applicable zoning.

(m) Vehicles. The use of all vehicles, including but not limited to truck, automobiles, graders, tractors, pickups, trailers, buses, campers, recreational

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vehicles, bicycles, motorcycles, motor scooters, wagons, sleighs and snowmobiles, shall be subject to the Association Rules, which may prohibit or limit the use thereof within specified parts of the Property, and which may also provide parking regulations and adopt other rules regulating the same.

(n) Construction Activities. This Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by any Owner (including Declarant) upon property within the Property, provided that when completed such Improvements shall in all ways conform to this Declaration. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence, is in compliance with applicable federal, state and local laws and ordinances and any rules and regulations adopted pursuant thereto, and conforms to usual construction practices in the area. In the event of any dispute, a temporary waiver of the applicable provision, including but not limited to any provision prohibiting temporary structures, may be granted by the Architectural Committee, provided that such waiver shall be only for the reasonable period of such construction. Such waiver may, but need not, be recorded or in recordable form.

(o) Exemption of Declarant. Notwithstanding anything in this Declaration to the contrary, neither Declarant nor any of Declarant's activities shall in any way be subject to the control of or under the jurisdiction of the Architectural

Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of Improvements, to maintain model premises and construction, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing, all or anywhere on the Property.

(p) Assignment by Declarant. Any other provision of this Declaration to the contrary notwithstanding, Declarant may assign in whole or in part any of its privileges, exemptions, rights and duties under this Declaration to any other person and may permit the participation in whole or in part by such person.

ARTICLE VI

LANDSCAPING, OUTSIDE STORAGE AND MAINTENANCE

6.1 Lots shall be landscaped in accordance with a plan submitted to and approved in writing by the Architectural Control Committee. Such landscaping shall include sodding, planting of trees, shrubs and other customary landscape treatment.

6.2 The approved landscape plan shall be installed within 30 days of completion of construction of Improvements.

6.3 The approved landscape plan for any Lot may not be altered without submitting the revised plan for written approval of the Architectural Control Committee.

6.4 No materials, supplies, equipment, finished products or semi-finished products, raw materials, or articles of any nature shall be stored or permitted to remain on any Lot outside of the Improvement constructed thereon, provided that waste and rubbish storage facilities, properly screened, may be allowed with the prior written approval of the Architectural Control Committee.

6.5 Each Owner and tenant shall keep its premises, buildings, improvements and appurtenances in a safe, clean, neat condition, and shall comply in all respects with all government, health and police requirements. Each Owner and tenant shall remove at its own expense any rubbish or trash of any character which may accumulate on its Lot. Rubbish and trash shall not be disposed of on the premises by burning in open fires or incinerators.

ARTICLE VII

ARCHITECTURAL CONTROL COMMITTEE

7.1 There is hereby established an Architectural Control Committee which shall ultimately consist of five members. The initial Committee shall consist of three members to be designated by Declarant. The Committee shall be expanded to five members at such time as Declarant may decide to designate two additional members from among Owners and tenants of the Property. The Association shall elect from its membership two qualified people who will immediately replace the two members appointed by the Declarant from among Owners and tenants. Declarant shall continue to designate the remaining three members until such time as Declarant assigns the right of designation of the full Committee to the Association.

The term of office of the members of the Architectural Control Committee shall be for one year. In the event of the permanent or temporary absence of a member, the parties appointing such member, may appoint a successor or temporary successor to him.

A Chairman of the Architectural Control Committee shall be selected annually from among the members of the Committee by the Declarant so long as Declarant continues to appoint any members to the Committee. Thereafter the Chairman shall be elected annually from among the members of the Committee by majority vote of the members. The Chairman, following his election, shall take charge of and conduct all meetings and shall provide for reasonable notice to each member of the Committee prior to any meeting.

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The vote of the majority of the members shall constitute the action of the Architectural Control Committee on any matter before it. The Chairman shall be a voting member of the Committee.

7.2 Approval of Submittals: No Improvement shall be constructed on a Lot except within the area designated as a Building Site without the consent of Declarant. No Improvement or landscaping shall be commenced or altered on any Lot until the plans have been approved by action of the Architectural Control Committee, except that improvements and alterations which are completely within a building may be undertaken without such approval. The Architectural Control Committee shall exercise its best judgment to see that all buildings, Improvements and landscaping conform and harmonize with existing structures and landscaping at the Property as to external design, quality and type of construction materials, size and area, color, siting, height, grade and finished ground elevation. The actions of the Architectural Control Committee through its approval or disapproval of plans and other information submitted, or with respect to any other matter before it, shall be conclusive and binding on all interested parties.

The Architectural Control Committee shall reply to all submittals of plans, within thirty days of receipt thereof. Failure to reply within such period shall be deemed to be an approval of such plans. Where prior written consent or approval of the Architectural Control Committee is required under this Declaration, such building, or improvements or landscaping shall be conclusively deemed to have been constructed, installed or located in compliance with the Declaration unless a legal action shall be commenced objecting thereto within 30 days of the completion of such construction, installation or location. All communications and submittals shall be addressed to the Architectural Control Committee for Basalt Center Subdivision at Box 1112, Basalt, Colorado 81621.

7.3 Required Submittals: The following information in four copies, two of which shall be returned, shall be submitted in writing to the Architectural Control Committee in connection with its consideration of any plans:

(a) Architectural plans for the proposed building or buildings, which shall include outline specifications designating materials and mechanical, electrical and structural systems, and samples of external colors.

(b) A site plan showing location and design of buildings, streets, parking areas, loading areas, maneuvering areas and sidewalks.

(c) A grading plan and a landscaping plan, including screen walls and fences, for analysis of adequacy of visual screening, erosion control, and drainage designs.

(d) A site plan showing utilities and utility easements.

(e) An estimate of the maximum number of employees contemplated to be working at the business to be carried on at the proposed Improvement.

(f) Plans for all signs to be erected, including details of signs, materials, location, design, size, color and lighting.

(g) A description of proposed operations in sufficient detail to permit judgment of the extent of any noise, odor, glare, vibration, smoke, dust, gases, hazard radiation, radio-activity, electrical radiation or liquid waste that may be created.

(h) A description of the proposed operations in sufficient detail to permit judgment as to whether or not they are permitted uses under the terms of then existing zoning ordinances, and this Declaration.

(i) Any other information as may be required by the Architectural Control Committee in order to insure compliance with requirements contained herein.

Neither the Architectural Control Committee, nor any members, employee or agent thereof shall be liable to any Owner or tenant or to anyone submitting plans for approval, or to any other party by reason of mistake in judgment, negligence, or non-feasancy, arising out of or in connection with the approval, disapproval or failure to approve any such plans or for any other action in connection with its or their duties hereunder. Likewise, anyone so submitting plans to the Architectural Control Committee for approval, by submitting such plans, and any person when he becomes an Owner or tenant, agrees that he or it will not bring any action to suit to recover any damages against the Architectural Control Committee, or any member, employee or agent of said Committee.

ARTICLE VIII

COVENANT FOR MAINTENANCE ASSESSMENTS

8.1 Creation of the Lien and Personal Obligation of Assessments: Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot situated therein by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

- (a) Annual assessments or charges; and
- (b) Special assessments for capital improvements.

Such assessments shall be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, including reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot, and all improvements thereon, against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the

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assessment fell due; provided, however, that the personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

8.2 Purpose of Assessments: The assessments levied by the Association through its Board of Directors shall be used exclusively for the purpose of promoting the recreation, health, safety, appearance and welfare of the Owners of the Property; for the improvement, landscaping, and maintenance of the Common Area and of the landscaped portions of the Lots situated within the Property; such other maintenance or improvement obligations which may be deemed necessary for the common benefit of the Owners and the maintenance of property values and harmonious commercial environment or which may be incurred by virtue of agreement with or requirement of city, county or other governmental authorities; to provide adequate insurance of any and all types and amounts deemed necessary by the Association; and to provide such reserves as may be deemed necessary in order to accomplish the objects and purposes of the Association. A portion of the annual assessments shall further be used to provide a reserve fund for the refurbishing and maintenance of the Common Area and the Association shall be obligated to establish such reserve fund.

8.3 Basis and Payment of Annual Assessments:

(a) Each annual and special assessment shall be assessed equitably among the Owners and the Association shall levy that portion of the assessments against each Lot as is equal to the number of votes to which the Owner thereof is entitled pursuant to Article III above. No additional assessments shall be levied by reason of the multiple votes to which a Class B Member is entitled.

(b) The annual assessment shall be estimated by the Association prior to the conveyance of the first Lot and shall be payable in equal quarterly installments.

(i) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased by the Association each year by not more than fifteen percent (15%) above the maximum assessment for the previous year without a vote of the membership.

(ii) From and after January 1, of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased by the Association by more than fifteen percent (15%) by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose.

(iii) The Association may fix the annual assessment at an amount not in excess of the maximum.

(c) Quarterly installments of annual assessments shall be due and payable on or before the first day of each quarter, but shall be and become a lien as of the date of the annual assessment as hereinafter provided. Written notice of the annual assessment shall be sent to every Owner immediately after the annual assessment is fixed. The Association shall upon demand of any Owner, prospective purchaser, mortgagee and prospective mortgagee at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

8.4 Special Assessments for Capital Improvements: 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

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part, the cost of any reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

8.5 Notice and Quorum for any Action Authorized Under Sections 8.3 and 8.4: Written notice of any meeting called for the purpose of taking any action authorized under Sections 8.3 or 8.4 shall be sent to all Members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty percent (50%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

8.6 Date of Commencement of Annual Assessments:
The annual assessments provided for herein shall commence not earlier than the first day of the month following the conveyance of the first Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period.

8.7 Effect of Nonpayment of Assessments - Remedies of the Association: Any assessment installment which is not paid when due shall be delinquent. If the assessment installment is not paid within thirty (30) days after the due date, the assessment install-

ment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the delinquent installments, or record a statement of lien in the real property records of Eagle County, Colorado and foreclose the lien in the same manner as is provided in the laws of Colorado for the foreclosures of mortgages on real property against the Lot and the improvements thereon for the amount of the delinquent assessment, plus interest and the costs of collecting the same, including reasonable attorneys' fees. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

8.8 Subordination of the Lien to Mortgages: The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust and to the Seller's rights under any executory land sales contract. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot as a result of court foreclosure of a mortgage, foreclosure through the Public Trustee or any proceeding in lieu of foreclosure shall extinguish the lien of such assessments as to installments thereof which became due prior to such sale or transfer, but shall not relieve any former Owner of personal liability therefor. No sale or transfer shall relieve such Lot from liability for any installments of assessments thereafter becoming due or from the lien thereof.

8.9 Notice: Upon the request of a first mortgagee of a Lot, the Association will report to the said mortgagee any unpaid assessments or other default of the Owner of such Lot which has not been cured within 60 days.

ARTICLE IX

EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide care, watering, and maintenance of trees, shrubs, grass and walks on the Common Area and the Lots.

In the event of the need for maintenance or repair of a Lot or the Improvements thereon which is not completed by the Owner after a reasonable period of time, the Association may provide exterior maintenance and the cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject and shall be an addition to any annual or special assessments to which such Lot is subject.

ARTICLE X

PARTY WALLS

10.1 General Rules of Law to Apply: Each wall which is built as a part of the original construction of the Improvements upon the Lots and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

10.2 Sharing of Repair and Maintenance: The cost of reasonable repair and maintenance of a party wall shall be shared in equal proportions by the Owners who make use of the wall.

10.3 Destruction by Fire or Other Casualty: If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

10.4 Weatherproofing: Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

10.5 Right to Contribution Runs With Land: The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

ARTICLE XI

EASEMENTS

11.1 Common Area: The easements over and across the Common Area shall be those shown, or provided for, upon the recorded plat of Basalt Center Subdivisions and such other easements as may be established pursuant to or provided for by the provisions of this Declaration of Covenants, Conditions and Restrictions.

11.2 Encroachments: Each Lot and the Common Area shall be subject to an easement for encroachment of buildings on adjoining Lots or the Common Area, or encroachment of the Common Area onto any Lot, and for overhangs as approved by the Declarant, and for any encroachment occurring hereafter as a result of settling or shifting of any structure. A valid easement shall exist for said encroachments and overhangs and for their maintenance, repair and replacement. If any structure is partially or totally destroyed and then rebuilt, the Owners of the Lots agree that minor encroachments of parts of construction onto adjacent Lots or the Common Area due to construction shall be permitted and that a valid easement for such overhangs and encroachments and the maintenance thereof shall exist.

11.3 Utilities: Notwithstanding anything contained in Section 4.1 and Section 4.4 of Article IV, the Association may grant easements upon, across and under the Common Area for such

purposes as the Association sees fit to a public agency, public authority, or utility, for installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity.

11.4 Easement for Association: Each Lot and the Common Area shall be subject to an easement for the Association (including its agents, employees and contractors) for providing the maintenance set forth in Article IX.

ARTICLE XII

INSURANCE

12.1 Insurance Requirements Generally: The Association shall obtain and maintain in full force and effect at all times certain casualty, liability and other insurance as hereinafter provided. All such insurance shall name as insureds the Association, the Board of Directors of the Association, the Association's officers, employees and agents, and to the extent possible, the Owners. All such insurance shall protect each of the insureds as if each were separately insured under separate policies. To the extent possible, such insurance shall: (a) provide for a waiver of subrogation by the insurer as to claims against Declarant, the Association, its directors, officers, employees, and agents and against each Owner and each Owner's employees; (b) provide that any "no other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by any Owner or Mortgagee and that the insurance policy shall not be brought into contribution with insurance maintained by any Owner or Mortgagee; (c) contain a standard mortgage clause endorsement in favor of the Mortgagee of any Lot or part of the Common Area, except a Mortgagee of a Lot or part of the Common Area who is covered by other and separate insurance; and (d) provide that the policy of insurance shall not be terminated, cancelled or substantially modified without at least 10 days' prior written notice to the Association and to each Owner and to each Mortgagee covered by any

standard mortgage clause endorsement. To the extent possible, public liability and property damage insurance shall provide for coverage of any cross liability claims of Owners against the Association or other Owners and of the Association against Owners without right of subrogation. Any insurance policy may contain such deductible provisions as the Board of Directors of the Association deems consistent with good business practice.

Certificates of insurance coverage or copies of insurance policies shall be issued to each Owner and each Mortgagee who makes written request to the Association for any such certificate or copy of an insurance policy.

The cost and expense of all insurance obtained by the Association, shall be an expense of the Association.

12.2 Casualty Insurance: The Association shall obtain and maintain casualty insurance covering the Common Area covering loss or damage by fire and such other hazards as are covered under standard extended coverage policies, with vandalism and malicious mischief endorsements, and, if available and if deemed appropriate by the Association, war risk, for the full insurable replacement cost of Common Area.

12.3 Public Liability and Property Damage Insurance: The Association shall obtain and maintain comprehensive public liability and property damage insurance covering personal liability, property damage liability and automobile personal and property damage liability of the Association, its officers, directors, employees and agents and of each Owner and each Owner's employees arising in connection with ownership, operation, maintenance, occupancy or use of the Common Area, with limits of not less than \$500,000 for each occurrence involving bodily injury liability and/or property damage liability.

12.4 Workmen's Compensation and Employers Liability Insurance: The Association shall obtain and maintain workmen's compensation and employer's liability insurance as may be necessary to comply with applicable laws.

12.5 Insurance By Owners: Each Owner shall be responsible for obtaining insurance he deems desirable, including, without limitation, casualty insurance covering improvements on an Owner's Lot and furnishings and personal property belonging to that Owner and insurance covering personal liability of that Owner and that Owner's employees. Any insurance policy obtained by an Owner shall be such that it will not diminish or adversely affect or invalidate any insurance or insurance recovery under policies carried by the Association and shall, to the extent possible, contain a waiver of the right of subrogation by the insurer as to any claim against the Association, its officers, directors, agents and employees and against other Owners and their employees. A copy of any insurance policy obtained by an Owner shall be furnished to the Association.

12.6 Receipt and Application of Insurance Proceeds: Except as some particular person has a legal right to receive insurance proceeds directly, all insurance proceeds and recoveries shall be paid to and received by the Association. All insurance proceeds or recoveries received by the Association shall be applied by the Association: first, as expressly provided elsewhere in this Declaration; second, to the Owners and their mortgagees jointly or persons whom the Association may determine are legally or equitably entitled thereto; and third, the balance, if any, to the Owners in equal proportions.

12.7 Other Insurance by Association: The Association shall have the power or authority to obtain and maintain other and additional insurance coverage, including casualty insurance covering personal property of the Association, and insurance indemnifying officers, directors, employees and agents of the Association. The Association may maintain fidelity bonds or insurance covering employees and agents of the Association in an amount which is equal to at least one and one-half times the Association's estimated annual operating expenses and reserves.

12.8 Owner-Increased Premiums: In the event that, as a consequence of the hazardous use of any Lot, or of any Owner-installed improvements to any Lot, the premiums of any policy of insurance purchased by the Association are increased, or a special policy is required, the cost of such increase or specific policy shall be payable by the Owner of such Lot.

ARTICLE XIII

DAMAGE OR DESTRUCTION TO COMMON AREA

13.1 Damage to Common Area: In the event of damage or destruction to all or a portion of the Common Area due to fire or other disaster, the insurance proceeds if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such Common Area damage or destruction are insufficient to repair and reconstruct the damaged or destroyed Common Areas, the Association shall present to the Members a notice of a special assessment for approval by the membership. If such assessment is approved, the Association shall make such assessment and proceed to make such repairs or reconstruction. If such assessment is not approved, the insurance proceeds may be applied in accordance with the wishes of the membership as expressed by majority vote, except that the proceeds shall not be distributed to the Owners, unless made jointly payable to Owners and the first mortgagees of their respective Lots, if any. Such assessment shall be due and payable as provided by resolution of the Board of Directors, but not sooner than thirty (30) days after written notice thereof. The assessment provided for herein shall be a debt of each Owner and a lien on his Lot and the improvements thereon and may be enforced and collected by foreclosure proceedings in the courts.

In the event of damage or destruction to all or a portion of the Common Area which is caused by the willful or negligent act of an Owner or an Owner's employees, the cost of repairing

and reconstructing the damaged or destroyed Common Area shall be assessed to such Owner and shall be added to and become part of the assessment to which such Owner's Lot is subject and shall be an addition to any annual or special assessments to which such Owner's Lot is subject.

ARTICLE XIV

CONDEMNATION

14.1 Condemnation: If at any time or times during the continuance of ownership pursuant to this Declaration all or any part of the Common Area shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Article shall apply:

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

(b) Complete Taking. In the event that all of the Common Area is taken or condemned, or sold or otherwise disposed of, in lieu of or in avoidance thereof, the Condemnation Award shall be apportioned among the Owners in accordance with the voting percentage of such Owners and payment of said apportioned amounts shall be made payable to the Owner and the first mortgagee of his Lot jointly.

(c) Partial Taking. In the event that less than the entire Common Area is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condemnation Award shall first be applied by the Association to the rebuilding and replacement of those improvements on the Common Area damages or taken by the condemning public authority, unless seventy-five percent (75%) of the Owners and the first mortgagees of each Lot agree otherwise. Any surplus of the award or other portion thereof not used for rebuilding and replacement of such improvements shall be apportioned among the Owners in accordance with the voting percentage of such

the Owners in accordance with the voting percentage of such Owners and payment of said apportioned amounts shall be made payable to the Owner and the first mortgagee of his Lot jointly.

ARTICLE XV

GENERAL PROVISIONS

15.1 Enforcement: The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any rights hereunder shall in no event be deemed a waiver of the right to do so thereafter.

15.2 Annexation: Additional property may be annexed by Declarant without the consent of the Members at any time or times. Said annexation shall occur when Declarant records a Certificate of Annexation, describing the real property to be annexed and on the date of recording said Certificate said real property shall be deemed a part of the Property, defined herein, and shall be subject to all of the terms and conditions of this Declaration.

15.3 Amendment: The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, and the Owner of every Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than Owners holding ninety percent (90%) of the votes of the Association, and thereafter by an instrument signed by not less than Owners holding seventy-five percent (75%) of the votes of the Association, and at all times by not less than seventy-five percent (75%) of the first mortgagees (based upon one vote for each mortgage). Any amendment

must be recorded.

15.4 Severability: Invalidation of any one of these covenants or restrictions by statute, judgment or court order shall in no wise affect any other provisions, all of which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has set its hand and seal as of the day and year first above written.

ISI INVESTMENT GROUP, a Colorado partnership

By Ted R. Isaacson
General Partner

STATE OF COLORADO)
) ss.
COUNTY OF Mesa)

Subscribed and sworn to before me this 27th day of October, 1976 by Ted R. Isaacson, as General Partner of ISI Investment Group, a Colorado partnership.

Witness my hand and official seal.

My commission expires: August 28, 1977

Marilyn C. Mitchell
Notary Public

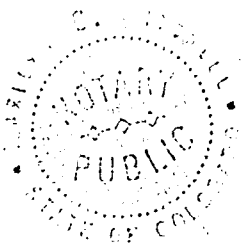


EXHIBIT A

TO

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
BASALT CENTER SUBDIVISION

A tract of land situate in Section 7, Tract 48 and Tract 45, Township 8 South, Range 86 West of the 6th Principal Meridian more particularly described as follows:

Beginning at a point whence AP-2 of said Tract 48 bears N. 83°06'00" W. 450.55 feet; with all bearing contained herein relative to a bearing of South on the West line of Tract 47, T8S, R86W of the 6th P.M.; thence S. 00°45'00" E. 245.75 feet; thence S. 76°54'00" W. 64.00 feet; thence S00°45'00" E. 67.52 feet; thence S. 62°44'00" W. 120.10 feet; thence S. 32°00'00" W. 135.06 feet; thence N. 69°16'44" W. 50.74 feet; thence S. 34°50'00" W. 144.11 feet to the Northeasterly right of way (R-O-W) line of Colorado State Highway No. 82; thence along said Northeasterly R-O-W line the following courses: N. 35°40'00" W. 66.01 feet; thence 114.71 feet along the arc of a 1323.3 foot radius curve to the left which arc subtends a chord bearing N. 38°09'00" W. 114.67 feet; thence N. 40°38'00" W. 104.00 feet; thence 183.23 feet along the arc of a 204.7 foot radius curve to the right which arc subtends a chord bearing N. 14°59'24" W. 177.17 feet; thence departing said Northeasterly R-O-W line on a course bearing N. 89°15'00" E. 83.83 feet; thence N. 00°45'00" W. 16.02 feet; thence N. 89°15'00" E. 338.00 feet; thence N. 00°45'00" W. 180.00 feet; thence N. 89°15'00" E. 170.00 feet to the point of beginning.

COUNTY OF EAGLE
STATE OF COLORADO

145062

STATE OF COLORADO

County of EAGLE

I hereby certify that this instrument was
Filed for record in my office on

NOV - 1 1976

at 1⁰⁰ and recorded
in Book 249 Page 705
MANUAL: a. DATE b. BOOK c. PAGE
By Steve Wall
58.00

Basalt Realty

Box 737

Basalt, CO.

816 21