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DECLARATION OF GRANTS,
COVENANTS, CONDITIONS AND RESTRICTIONS
ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP
OF
GALENA LOFTS CONDOMINIUMS
A CONDOMINIUM COMMON INTEREST COMMUNITY

CITY OF ASPEN
COUNTY OF PITKIN
STATE OF COLORADO

Declarant:

434 East Main, LLC, a Colorado Limited Liability Company

whose address is

314 S. Galena St. Suite 200, Aspen, Colorado 81611



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GALENA LOFTS CONDOMINIUMS
DECLARATION OF GRANTS, COVENANTS, CONDITIONS, AND RESTRICTIONS

THIS DECLARATION is made on the date hereinafter set forth by 434 East Main, LLC a Colorado Limited Liability Company (the "Declarant"), with an office at 314 S. Galena St. Suite 200, Aspen, Colorado 81611.

ARTICLE I
STATEMENT OF INTENT AND PURPOSE

1.1 Authority. Declarant is the owner of that certain real property located in the City of Aspen, County of Pitkin, State of Colorado, more particularly described on the legal description attached hereto and incorporated herein as Exhibit "A" by this reference (the "Land"), together with all improvements constructed thereon, as defined below. This Condominium Declaration, as defined below, is executed to submit the Land and all improvements constructed thereon to condominium ownership and use in the manner provided in the Colorado Common Interest Ownership Act, Title 38, Article 33.3, Colorado Revised Statutes, 1992, as amended, ("CIOA" or "Act") which are relevant to the creation of condominiums ("Condominium Laws").

1.2 Declaration. Declarant hereby declares that the following terms, covenants, conditions, easements, restrictions, uses, reservations, limitations and obligations shall be deemed to run with the land and shall be binding upon and accrue to the benefit of Declarant, its successors and assigns, and any person or entity acquiring and holding an interest in the Project, as defined below, its grantees, successors, heirs, personal representatives, or assigns.

1.3 Purpose. Declarant has caused the "Association," as defined below, to be incorporated under the laws of the State of Colorado for the purpose of exercising the functions of the Association as herein set forth. Declarant desires to create a condominium common interest community on the Land, the name of which is Galena Lofts Condominiums, which will be designated for common ownership solely by the owners of the separate ownership portions. Declarant executes this Declaration to define the character, duration, rights, duties, obligations and limitations of condominium ownership.

ARTICLE 2
DEFINITIONS

The following definitions shall apply in this Condominium Declaration and the exhibits attached hereto unless the context shall expressly provide otherwise:

2.1 Intentionally Left Blank.



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2.2 Allocated Interest means the assigned fraction or percentage of an undivided interest in the Common Elements, the Common Expense liability, and the votes in the Association, as each are appurtenant to each Condominium Unit.

2.3 Articles of Incorporation mean the Articles of Incorporation for the Association filed with the Colorado Secretary of State, as may be amended from time to time.

2.4 Association means THE GALENA LOFTS CONDOMINIUM OWNERS ASSOCIATION, INC., a Colorado nonprofit corporation without stock, its successors and assigns, of which all Owners of Condominium Units shall be Members as provided in Article 12 hereof, and which Association shall be charged with the management and maintenance of the Project. The Association shall be governed by its Board of Directors (the "Board") pursuant to the Colorado Nonprofit Corporation Act.

2.5 Building means the portion of the Improvements (as defined below) located in a separate building plus common elements therein as depicted on the Condominium Map. The Project presently includes nine (9) dwelling units in one building.

2.6 Bylaws mean the Bylaws of the Association, as adopted by the Association and amended from time to time.

2.7 Common Elements mean and refers to the General Common Elements and Limited Common Elements.

2.8 Common Expenses mean and includes:

2.8.1 Expenses declared Common Expenses by provisions of this Condominium Declaration;

2.8.2 Expenses or liabilities incurred by or on behalf of the Association in connection with the administration, operation and management, maintenance, repair or replacement of the Common Elements, including, but not limited to, insurance, security and utilities attributable to the operation of the Common Elements, except as otherwise provided herein;

2.8.3 All sums lawfully assessed against the Condominium Units by the Association as Common Expenses; and

2.8.4 Other expenditures made, liabilities incurred, or expenses agreed upon as Common Expenses by the Board.

2.9 Condominium Laws mean the Colorado Common Interest Ownership Act, Title 38, Article 33.3, Colorado Revised Statutes, 1992, as amended.

2.10 Condominium Map or "Map" means that part of a declaration that depicts all or any portion of a common interest community in three dimensions, prepared in accordance with the Act, executed by Declarant, and filed for record in the office of



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the Clerk and Recorder of Pitkin County, Colorado. The Condominium Map may be filed for record in parts or sections and may be supplemented or amended as provided herein.

2.11 Condominium Property means the Land and all Improvements and future Improvements, if any, and all appurtenant rights thereto created by this Declaration.

2.12 Condominium Unit means an individual air space Unit as defined in Section 2.27 and designated as a Condominium Unit on the Condominium Map, together with the undivided interest in the Common Elements appurtenant to said Unit (expressed as a percentage of the entire ownership interest in the Common Elements), and any Limited Common Elements designated and reserved for such Unit.

2.13 Declarant means 434 East Main, LLC, a Colorado Limited Liability Company, its successors and assigns.

2.14 Declaration or Condominium Declaration means this Declaration of Grants, Covenants, Conditions and Restrictions Establishing a Plan for Condominium Ownership of Galena Lofts Condominiums, a Condominium Common Interest Community, and any and all duly executed amendments, supplements, or additions of this Declaration, recorded in the office of the Clerk and Recorder of Pitkin County, Colorado and filed, including any maps or plats recorded in connection therewith.

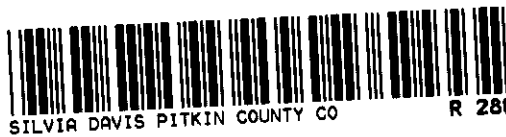
2.15 Development Rights mean by way of illustration and not limitation, any right or combination of rights reserved by the Declarant to add real estate to the Project; to create Units, Common Elements, or easements, within the Project; to subdivide Units or convert Units into Common Elements; to relocate the boundaries of Units, enlarge Units, reduce the size of Units or common areas; to complete or renovate the Buildings and other Improvements of the Project; to withdraw real estate or Improvements from the Project; or to exercise other rights provided for by the Condominium Laws and this Declaration.

2.16 First Mortgage means a recorded Mortgage or Deed of Trust under which the interest of any Owner is encumbered and which at the time of its creation as a lien on said Owner's unit by recordation in the real property records of Pitkin County, Colorado, said Mortgage had a first and paramount security-interest priority.

2.17 First Mortgagee means the holder of any First Mortgage.

2.18 General Common Elements means and includes all of the following, except:

(a) portions of the Improvements contained entirely within and servicing only one Condominium Unit; and/or



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(b) portions of the Condominium Property which are designated as Limited Common Elements under this Declaration or on the Condominium Map.

General Common Elements include:

2.18.1 The Land described in Exhibit A as may be amended from time to time;

2.18.2 The structural components of the Improvements, the main or bearing walls of the Buildings and the main or bearing sub-flooring and roofs of the Buildings, including, but not limited to: the foundations, columns, girders, beams, supports, fire walls, roofs, halls, corridors, stairs, stairways, fire escapes, entrances and exits, delivery docks, structural floors, structural walls, crawl space, basements, attic space, storage space, and heat ducts;

2.18.3 The exterior walls, the main or bearing walls within the Buildings, including such bearing walls as are located within a Unit, and the main load bearing sub-flooring and roofs of the Buildings, windows and exterior doors of an individual air space Unit;

2.18.4 If designated as General Common Elements, all sidewalks, internal or external elevators and/or escalators, roads, driveways, yards, gardens, planters, landscaping, and decks/patios; if any;

2.18.5 Intentionally Left Blank;

2.18.6 Any installations consisting of equipment and materials making up any central utility and communication services (including all pipes, ducts, flues, wires, cable and conduit used in connection with such items, whether located in common areas or within Units), including such services as power, light, gas, hot and cold water, heating, refrigeration, central air conditioning, incinerating, security systems, telecommunication systems, and such central service support structures as are located within or without a Unit; the tanks, pumps, motors, fans, compressors and ducts;

2.18.7 Any structures, portions of structures, or other surface or subsurface areas, including individual parking spaces devoted to the parking of automobiles, if any, and which are not otherwise identified as units or Limited Common Elements;

2.18.8 General storage areas and laundry facilities serving Unit Owners which are designated as general common areas, if any, and which are not designated as Limited Common Elements. The Association shall promulgate rules to determine the manner in which such storage and laundry areas are to be made available to Unit Owners and any charges for such usage. The Association may contract for laundry management or services and may lease the



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laundry areas and facilities upon terms and conditions as determined by the Board;

2.18.9 In general, all apparatus and installations existing or provided for common use other than a Unit or a Limited Common Element; and

2.18.10 All other parts of the Project, Land, and Improvements necessary or convenient to the existence, maintenance and safety of the Project, or normally in common use.

2.19 Improvements means all structures and improvements located above, on or below the surface of the Land, including the Building and structural components thereof, structured parking facilities, surface parking lots, and all internal or external elevators and/or escalator, sidewalks, utility installations, landscaping and other similar features and amenities.

2.20 Land means that certain fee simple real property comprising the underlying ground situated in the City of Aspen, Pitkin County, Colorado, described on attached Exhibit A

2.21 Limited Common Elements means those Common Elements designated and reserved for the exclusive use by the Owner or Owners of a particular Condominium Unit or Units, but less than all of the Condominium Units, which Limited Common Elements are deemed to be an inseparable appurtenance to such Condominium Unit or Units. By way of illustration, but not limitation, any balcony, deck, terrace, porch, patio, stairs and storage area which is identified on the Condominium Map by legend, symbol or word as a Limited Common Element of a specified Unit or Units, shall, without further reference thereto, be used in connection with such Condominium Unit or Units to the exclusion of other Owners of Condominium Units, except by invitation.

In describing a Condominium Unit, no separate reference to Limited Common Elements need be made in any lease, assignment of lease, sublease, deed, Mortgage, or other instrument.

2.22 Marketing Period means the period of Declarant control over the Association and is further defined in Section 15.5 hereof.

2.23 Mortgage means any real estate mortgage, deed of trust, or security instrument by which a Condominium Unit is encumbered.

2.24 Mortgagee means a person, firm, corporation, partnership, association, or other entity who is then a holder, secured party or beneficiary under a Mortgage.

2.25 Owner means any person, firm, corporation, partnership, association, or other entity, including Declarant, or any number of combinations thereof ("Persons") who own(s) one or more Condominium Units. The term "Owner" shall not refer to



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any Mortgagee, as defined herein, unless such Mortgagee, has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. The rights, duties, and obligations of an Owner with respect to the common areas shall inure to the benefit of a tenant.

2.26 Project means the Land and all Improvements, including the Buildings, thereon, together with all rights, easements, and appurtenances belonging thereto, submitted to condominium ownership by this Declaration and which may be subsequently submitted to condominium ownership under the terms of this Declaration or any supplemental declaration as hereinafter provided.

In general, by way of illustration and not limitation, the Project, subject to the reservation of expansion, withdrawal, and development rights as provided for in Article 27, if any, may consist of the existing Units, any additional Units created pursuant to Declarant's reserved development rights, storage areas, laundry facilities, common rooms with supporting facilities, office space (including one or more office condominium units), and other supporting facilities and amenities as depicted on the Condominium Map and on approved plans and permit applications filed with any local government with appropriate jurisdiction, as the same may be amended from time to time.

2.27 Unit means the physical portion or individual air space of the condominium, designated for separate ownership, the boundaries of which are defined on the Condominium Map and further described in Section 6.2 hereof.

ARTICLE 3

ESTABLISHMENT OF CONDOMINIUM OWNERSHIP

Declarant hereby divides, grants and submits to condominium ownership all of the Land and Improvements thereon related to or incidental thereto located upon the Land, providing for and creating the following condominium regime:

3.1 Condominium Units. Fee simple estates, each consisting of a separately designated Condominium Unit, together with an undivided percentage interest in the Common Elements being held by all of the Owners of the Condominium Units as tenants in common according to the percentage interest assigned to each Unit on "**Exhibit B**", attached hereto and made a part hereof, a share of Common Expenses, votes in the Association, and any Limited Common Elements designated and reserved to such Unit as set forth on the Condominium Map. Each Condominium Unit shall be identified on the Condominium Map by the number shown on Exhibit B.



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3.2 Use of General Common Elements. Subject to the limitations herein contained, any Owner shall have the nonexclusive right to use and enjoy the General Common Elements.

3.3 Covenants Running with the Land. All provisions of this Declaration shall be deemed to be covenants running with the land, or as equitable servitude, as the case may be, and shall inure to the benefit of and be binding upon Declarant, its transferees, successors, and assigns, and to all persons hereafter acquiring or owning any interest in the Project or any Condominium Unit, regardless of how such interest may be acquired.

ARTICLE 4

INSEPARABILITY OF A CONDOMINIUM UNIT

4.1 Inseparability of a Condominium Unit. Each Unit and its Allocated Interests, any easements appurtenant thereto, and the exclusive use of the Limited Common Elements designated for such Unit shall together comprise one Condominium Unit which shall be inseparable and may be conveyed, assigned, leased, devised or encumbered only as a Condominium Unit.

ARTICLE 5

CONDOMINIUM MAP

5.1 Filing of Map. Prior to any conveyance by Declarant of a Condominium Unit, Declarant shall cause to be filed for record in the office of the Clerk and Recorder of Pitkin County, Colorado, a Condominium Map, which shall contain a sufficient survey description of the air space of each Unit so as to locate the same accurately and properly. The Condominium Map may be filed in whole or in parts or sections, from time to time, as stages of construction of the Units and other improvements are substantially completed. Each section of the Condominium Map filed subsequent to the first-filed Condominium Map shall be termed a "Supplement" to such Map and the numerical sequence of such Supplement shall be shown thereon. The Condominium Map shall depict and show at least the following, as each may be applicable:

5.1.1 The name and a general schematic map of the entire Project;

5.1.2 The location and dimensions of all real estate not subject to Development Rights, or subject only to the Development Right to withdraw, and the location and dimensions of all existing Improvements within that real estate;

5.1.3 A legally sufficient description of any real estate subject to Development Rights, labeled to identify the rights applicable to each parcel;

5.1.4 The extent of any existing encroachments across any Project boundary;



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5.1.5 To the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the Project;

5.1.6 The distance between noncontiguous parcels of real estate comprising the Project;

5.1.7 The approximate location and dimensions of Limited Common Elements, including porches, balconies, and patios, other than the Limited Common Elements described in Sections 6.2.3 and 6.2.5 hereof;

5.1.8 The location and dimensions of the vertical boundaries of each Unit and that Unit's identifying number;

5.1.9 Horizontal Unit boundaries, except as described in Section 5.2, with reference to all established data, and that Condominium Unit's identifying number; and

5.1.10 Any Condominium Units in which the Declarant has reserved the right to create additional Units or Common Elements, identified appropriately.

5.2 Outside Horizontal Boundaries. The horizontal boundaries of any part of a Unit located outside of a building have the same elevation as the horizontal boundaries of the inside part and need not be depicted on the plats and maps.

5.3 Certification of Map. All plats or maps must contain a certification by a registered land surveyor that the plat or map contains all the information required by the Act.

ARTICLE 6 DESCRIPTION OF CONDOMINIUM UNIT

6.1 Legal Description of Condominium Unit. Every instrument affecting the title to a Condominium Unit shall describe that Condominium Unit by its identifying Condominium Unit designation followed by the words "Galena Lofts Condominiums" with further reference to the Condominium Map and the Declaration. Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the Condominium Unit, but also the Allocated Interests and any Limited Common Elements appurtenant thereto. Each such description shall be construed to include a nonexclusive easement for ingress to and egress from the Condominium Unit, and use (consistent with the Condominium Map and this Declaration) of the General Common Elements and the designated Limited Common Elements. An example of such description is as follows:

Condominium Unit No. _____, Galena Lofts Condominiums, Pitkin County, Colorado, according to and subject to the Condominium Declaration thereof recorded in Book _____, Page _____, and the Condominium Map for Galena



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Lofts Condominiums, filed for record in Plat Book
_____, Page _____, Pitkin County, Colorado.

6.2 Condominium Unit Boundaries.

6.2.1 In interpreting the Condominium Map or any part thereof, the existing physical boundaries of each separate Unit, as constructed, shall be conclusively presumed to be its boundaries.

6.2.2 If walls, floors, or ceilings are designated as boundaries of a Unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, and finished flooring and any other materials constituting any part of the finished surfaces thereof are part of the Unit, and all other portions of the walls, floors, or ceilings are part of the Common Elements.

6.2.3 If any chute, flue, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the General Common Elements.

6.2.4 Subject to the provision of Section 6.2.3 hereof, all spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

6.2.5 Any shutter, awnings, window boxes, doorsteps, stoops, porches, balconies, and patios and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements allocated exclusively to that Unit.

6.2.6 Any utility, communication facilities, or security systems running through a Unit that serve more than one Unit, any structural component of the Improvements, including foundations, columns, girders, beams, or any other Common Element or part thereof, located within the air space, shall not be included as part of a Unit.

6.3 Amendments Deemed Included. The reference to the Condominium Map and the Condominium Declaration in any instrument shall be deemed to include any supplements or amendments to the Condominium Map or the Condominium Declaration, whether or not specific reference is made thereto.

6.4 Conveyance of a Condominium Unit. Upon the purchase of any Condominium Unit from Declarant, a copy of each instrument of conveyance shall be furnished by Declarant to the Association. Upon any subsequent conveyance of a Condominium Unit, a copy of the instrument of conveyance shall be furnished to the Association by the grantee.



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6.5 Subdivision of Condominium Units. Except as provided in section 6.6 below with respect to the subdivision of previously combined Units, an Owner may not subdivide his Unit into two or more Units.

6.5.1 Nothing in this section shall be construed to limit the Declarant's right to subdivide Units pursuant to Article 27 hereof.

6.6 Relocation of Boundaries Between Adjoining Units. Subject to the Condominium Laws, Owner's of adjoining Units may seek to relocate the boundaries between such adjoining Units and to combine adjacent Units into one Unit by an amendment to the Declaration, upon the prior written consent of the Board.

6.6.1 In order to relocate the boundaries between two Units or to combine adjacent Units, the Owners of those Units, as the applicant, must submit an application to the Board, which application shall be executed by those Owners and shall include:

(a) Evidence that the applicant of the proposed subdivision shall have complied with all building codes, fire codes, land use/zoning codes, planned condominium unit development requirements, parking requirements, master plans, and other applicable ordinances or resolutions adopted and enforced by the local governing body and that the proposed subdivision does not violate the terms of any document evidencing a security interest encumbering the Unit;

(b) The proposed reallocation of Allocated Interests, if any;

(c) The proposed form of amendments to the Declaration, including the Condominium Map, as may be necessary to show the altered boundaries between adjoining units or altered boundary of a combined Unit, and their dimensions and identifying numbers;

(d) A deposit against attorney fees and costs which the Association will incur in reviewing and effectuating the application, in an amount reasonably estimated by the Board; and

(e) Such other information as may be reasonably requested by the Board.

6.6.2 No relocation of boundaries between adjoining Units or combination of Units shall become effective unless all necessary amendments to the declaration, plats, or maps are properly executed and recorded and all required governmental approvals are secured. The owner of a Unit which was created by the combination of separate Units may, subject to approval of the Board, subdivide said Unit into not more than the original number of Units that were previously combined by following the procedure set forth in this section 6.6.



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6.6.3 Nothing in this section shall be construed to limit the Declarant's right to relocate boundaries between adjoining Units pursuant to Article 27 hereof.

ARTICLE 7
TITLE AND OWNERSHIP

7.1 Title. A Condominium Unit may be held and owned by more than one Owner as joint tenants, tenants in common, or in any other real property tenancy or estate recognized under the laws of the State of Colorado.

7.2 Term of Ownership. The separate estate of an Owner of a Condominium Unit created by this Declaration shall continue until revoked in the manner contained in this Declaration or by operation of law.

7.3 Nonpartitionability of Common Elements. The Common Elements shall be owned in common by all Owners of the Condominium Units and shall remain undivided. By the acceptance of his deed or other instrument of conveyance, each Owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Elements. Each Owner specifically agrees not to institute any action therefore. Furthermore, each Owner agrees that this Section 7.3 may be pleaded as a bar to the maintenance of such an action. A violation of this provision shall entitle the Association to collect, jointly and severally, from the parties violating the same, the actual attorneys fees, costs and other damages the Association incurs in connection therewith. The partition of any interest in a common ownership community is prohibited. By becoming part of this common ownership community any right to maintain a legal partition action is forever waived.

7.4 Transfer of Common Elements.

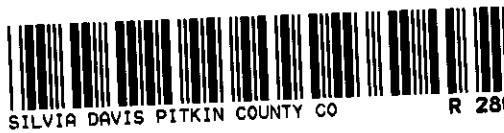
7.4.1. All Owners and the Association covenant that they shall neither by act nor omission, seek to abandon, subdivide, encumber, sell, transfer, or lease, except as provided below, the Common Elements without the consent of:

(a) the Owners representing an Allocated Interests of eighty percent (80%) or more,

(b) eighty percent (80%) of the First Mortgagees; and

(c) during the Marketing Period, the consent of the Declarant.

(d) with respect to Common Elements depicted on the Condominium Map as surface parking structures, lots, or spaces, if any, the consent of Declarant during such period of time as Declarant retains special Development Rights.



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Any such action without the written consent of said Owners, First Mortgagees and, if applicable, the Declarant, shall be null and void.

7.4.2. Notwithstanding the foregoing, nothing contained in this Section 7.4 shall be construed to limit or prohibit:

(a) an Owner from causing to be made a proportionate adjustment in the percentage ownership in the Common Elements in connection with the combination or division of any Condominium Unit pursuant to the right of combination, division, or partition of a Condominium Unit by the Owner or between Owners thereof for the purpose of sale, use, or improvement of such Condominium Unit; or

(b) the Board from entering into one or more leases, upon reasonable terms, creating and conveying to third parties leasehold interests for portions of the Common Elements, provided such leaseholds do not exceed a cumulative duration in excess of five years and the Board determines that the creation of the leasehold is necessary to manage and regulate the common areas.

Such agreement to abandon, subdivide, encumber, sell or transfer all or part of the Common Elements must be evidenced by the execution of an agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of Condominium Unit Owners. The agreement must specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof must be recorded in the office of the Clerk and Recorder of the County of Pitkin and is effective only upon recordation.

7.4.3 Unless in compliance with this section, any purported conveyance, encumbrance, judicial sale, or other voluntary transfer of Common Elements is void.

7.4.4 A conveyance or encumbrance of Common Elements pursuant to this section shall not deprive any Condominium Unit of its rights of ingress and egress of the Condominium Unit and support of the Condominium Unit.

7.4.5 A conveyance or encumbrance of Common Elements pursuant to this section does not affect the priority or validity of preexisting encumbrances.

ARTICLE 8 USE AND OCCUPANCY

8.1 Use of Common Elements. Each Owner shall be entitled to exclusive ownership and possession of his Condominium Unit. Each Owner may use the General and Limited Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Owners, and subject to the use and occupancy restrictions set forth in Section 8.3.



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8.2 Use of General Common Elements. There shall be no obstruction of General Common Elements, nor shall anything be kept or stored on any part of the General Common Elements without the prior written consent of the Association, except as specifically provided herein. No restriction, impairment, or interference with any right of ingress or egress provided for in this Declaration shall be permitted at any time without the prior written consent of the Owner thereof. Except as may be otherwise permitted, reserved or contemplated by this Declaration, nothing shall be altered on, constructed in, or removed from the General Common Elements except upon the prior written consent of the Association.

8.3 General Use Restrictions.

8.3.1 Pets of Owners may be raised, bred or kept in the Project pursuant to reasonable rules and regulations promulgated by the Association from time to time, and as may be adopted and amended by the Association. Tenants may not raise, breed or keep animals in the Project. Said rules and regulations may provide for, among other things: limitations on the type and number of pets, prohibited acts, the removal of pets which damage or deface property, make loud noises, create objectionable odors, or otherwise interfere with the use and enjoyment of the project by the Owners; methods of enforcement, including, without limitation, fines and/or injunctive relief, and for the payment of attorney fees and costs incurred by the Association in enforcing said rules and regulations. The Association may adopt a prohibition on the keeping of pets and animals in the Project if seventy-five percent (75%) of the Ownership interests in the Common Elements votes to do so at a regular or special meeting of the members of the Association.

8.3.2 Neither the Common Elements nor any part or appurtenance of or to any Condominium Unit which is visible outside the Condominium Unit shall be altered in appearance or modified without consent of the Association. No unsightly object or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the Owner of any Condominium Unit or any resident or tenant thereof.

8.3.3 (a) Except as otherwise provided for in this Declaration, Units shall only be used for residential purposes and no Unit may be used for commercial or business purposes, unless such use is of an incidental nature (such as a home office), the Unit Owner maintains an office and conducts substantially all business at a different location, and the use does not require County approval or issuance of any plans, permits, licenses or other reviews, except that Declarant may designate and maintain Units, in whole or part, as temporary model units and sales offices, and as temporary or permanent lobby area, and associated office space, conference rooms, exercise and spa areas, laundry areas and common rooms, if any. Notwithstanding the foregoing, if a unit is identified on the Map



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as an "Office Unit" it is permitted to be used for commercial office purposes and uses.

(b) No nuisances shall be allowed in the Project, nor any use or practice which is the source of annoyance to residents or tenants or which interferes with the peaceful enjoyment or possession and proper use of the Project by the Owners. All parts of the Project shall be kept in a clean and sanitary condition and no rubbish, refuse or garbage shall be allowed to accumulate nor any fire hazard to exist. No Condominium Unit Owner shall permit any use of his Condominium Unit or make any use of the General or Limited Common Elements which will unreasonably increase insurance rates upon the Condominium property. The Association may adopt bylaws and rules and regulations as may be related to the orderly administration or to abatement and enjoinder of nuisances.

(i) Noise emanating from a unit which is disturbing to other owners may be subject to rules and regulations adopted by the Association and further subject to abatement and other enforcement actions by the Association as a nuisance.

(ii) Tobacco smoke and its resulting odor, emanating from a Unit which is disturbing to other Owners, their tenants guests and invitees, shall be subject to rules and regulations adopted by the Association created to prevent such emanation of smoke and odors and further subject to abatement and other enforcement actions by the Association as a nuisance. The Association shall have the right to require an Owner of a Unit from which such smoke and odor emanates to construct physical barriers and ventilation improvements within such Owner's Unit as may be necessary to prevent the transmission of such smoke and odor through the Common Elements and/or into another Unit. If said Owner does not satisfactorily remedy the emanation of tobacco smoke and its resulting odor from such Owner's Unit, the Association shall have the right to do so at its expense and with full right of access to said Unit, and to recover the costs of such construction work, administrative, legal and architectural fees and any other costs and expenses incurred in relation thereto, from the Owner of the Unit from which said smoke and odors emanate, including the right to place and foreclose a lien for all of such costs against said Unit. The Association shall also have the right to seek injunctive relief to cause a cessation of such nuisance and shall be entitled to its attorney fees and court costs incurred in any such action. Each Owner hereby waives the right to have a bond posted by the Association in any action seeking injunctive relief under this provision. This provision may be enforced by the Association or by any Owner; provided that such Owner shall not have the right to undertake the construction work in another Owner's Unit as referred to above.

8.3.4 All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Project shall be observed.



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8.3.5 Rules and regulations may be promulgated by the Association concerning and governing both the use of the Units, the General and Limited Common Elements and the appearance of the Improvements. Copies of the rules and regulations shall be posted and/or reasonably furnished to Condominium Unit Owners prior to the time they become effective. The Association shall be responsible for taking all acts and making any rules and regulations as will ensure the maintenance of the Common Elements to high standards of safety, cleanliness and pleasing appearance. The rules and regulations shall not unreasonably restrict the use of any office unit or storage areas which are Limited Common Elements.

8.3.6 Except for those improvements caused to be erected or installed by Declarant, no exterior additions or alterations to or of the Improvements, nor changes in fences, plantings, walls and other structures, shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, heights, materials, location and approximate cost of the same, shall have been submitted to and approved in writing by the Association and any necessary local governmental agency or body so as to insure conformity and harmony of external design and relative location with existing structures comprising the Project. Upon completion of approved alterations or additions to the Improvements or completion of Owner build-out within a Condominium Unit, said Owner shall cause to be delivered to the Association a complete set of as-built plans. Any alteration, change, expansion, modification of any structure in the common interest community may require the approval of the City of Aspen.

8.4 On-Site Parking.

8.4.1 The Project is served by on-street parking, and does not have on-site parking. No Common Elements are being specifically allocated for parking purposes.

8.4.2 The Board may enforce applicable covenants for the Galena Lofts which govern the use of on-street parking. Owners of Units may not park junk vehicles or inoperable vehicles in the on-street parking areas adjacent to the Project nor shall hazardous or flammable materials be stored in said parking areas.

ARTICLE 9 EASEMENTS FOR ENCROACHMENTS

9.1 Encroachments. In the event that any portion of the Common Elements encroaches upon any Condominium Unit or Condominium Units, or in the event that any portion of a Condominium Unit encroaches upon any other Condominium Unit or Condominium Units or upon any portion of the Common Elements, or in the event any encroachment shall occur in the future as a result of:

(a) the build-out of a Condominium Unit by an Owner thereof following the completion of the base shell of a Building;



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- (b) settling of a Building or other Improvements;
- (c) alteration or repair to the Common Elements;
- (d) construction of Future Condominium Units, if any; or
- (e) repair or restoration of the Improvements and/or Condominium Unit(s) after damage by fire or other casualty, or condemnation or eminent domain proceedings;

then, in such event, a valid easement shall be deemed to exist for the encroachment and for the maintenance of the same so long as the Building stands or encroachment exists.

9.2 Destruction. In the event that any one or more of the Condominium Units or Buildings or other Improvements comprising part of the Common Elements are partially or totally destroyed and are subsequently rebuilt or reconstructed in substantially the same location, and as a result of such rebuilding any portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment shall then exist.

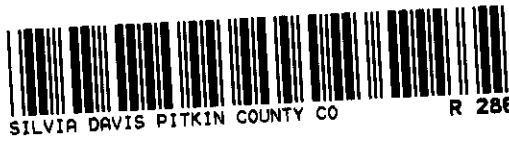
9.3 Marketability. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or on the Condominium Units for purposes of marketability of title or other purposes.

9.4 Liability. The easement does not relieve a Condominium Unit Owner of liability in case of willful misconduct nor relieve the Declarant or any other person of liability for failure to adhere to the Condominium Map.

9.5 Variations. In interpreting any and all provisions of the Declaration and subsequent deeds to and/or Mortgages relating to Condominium Units, the actual location of a Condominium Unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered notwithstanding any minor deviations, either horizontally, vertically or laterally from the location of such Unit indicated on the Condominium Map.

ARTICLE 10
RESERVATION FOR ACCESS - MAINTENANCE,
REPAIR AND EMERGENCIES

10.1 Association Right of Access. The Association, its officers, independent contractors, agents and employees, shall have the irrevocable right to have access to each Unit and all Common Elements during reasonable hours as may be necessary from time to time for the use, maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, or at any hour for making emergency repairs, maintenance or inspection therein necessary to prevent damage to the Common Elements or to another Unit. If requested by the Association, each Owner shall provide a key to any lock that secures access to such Unit.



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10.2 Damage. Damage to the interior or any part of a Unit, including damage to Owner installed or constructed improvements within a Unit, resulting from the maintenance, repair, emergency repair or replacement of any of the Common Elements or as a result of emergency repairs within another Unit at the direction of the Association, shall be the Common Expense of all of the Owners; provided, however, that if such damage is caused by the negligence of the Owner of the Unit, his agents, employees, invitees or tenants, then such Owner shall be assessed by the Association and liable for all of such damage and the cost thereof shall be the Owner's obligation and shall be immediately paid upon demand therefor.

10.3 Association's Responsibility. Maintenance, repair or replacement of any drainage structure or facilities, or other public improvements required by the local governmental entity as a condition of development of the Project or any part thereof shall be the responsibility of the Association, unless such improvements have been dedicated to and accepted by the local governmental entity for the purpose of maintenance, repair, or replacement or unless such maintenance, repair, or replacement has been authorized by law to be performed by a special district or other municipal or quasi-municipal entity.

10.4 Restoration. All damage described in Section 10.2 hereof shall be restored substantially, to the extent reasonably practical, to the same condition in which such improvements or items existed prior to such damage.

10.5 Common Expenses. All maintenance, repair and replacement of the General Common Elements, whether located inside or outside of any Unit (unless caused by the negligence, misuse or deliberate act of an Owner), shall be the Common Expense of all of the Owners.

10.6 Emergency Services Easement. An easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency services or persons to enter upon the Project in performance of their duties.

ARTICLE 11

ASSESSMENTS AND TAXATION

11.1 Separate Assessments and Taxation - Notice to Assessor. Upon the filing for recording of this Declaration, the Declarant shall deliver a copy of this Declaration to the Assessor of Pitkin County, Colorado.

11.2 Assessments and Taxation. Each Unit, together with its undivided interest in the Common Elements and its interest in the Limited Common Elements appurtenant thereto, shall be deemed a separate parcel and subject to separate assessment and taxation. For purposes of such assessment, the valuation of the Common Elements shall be apportioned among the Condominium Units in proportion to the percentage undivided interest in the Common Elements appurtenant to such Units.



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ARTICLE 12
CONDOMINIUM OWNERS ASSOCIATION

12.1 The Association. The administration of the Project shall be governed by this Declaration, and by the Articles of Incorporation and Bylaws. The Declaration shall control over the Articles of Incorporation and Bylaws of the Association, and the Articles of Incorporation shall control over the Bylaws.

12.2 Membership. Each Owner of a Condominium Unit shall automatically become a Member of the Association and shall remain a Member of the Association for the period of the Owner's Unit ownership. Each Owner shall be entitled to one membership for each Condominium Unit owned. Each membership shall be appurtenant to the Condominium Unit and shall be transferred automatically by conveyance of the Condominium Unit. No person or entity other than an Owner may be a member of the Association, but the rights of membership may be assigned to a Mortgagee as and for the security for a loan secured by a mortgage on a Condominium Unit. Any corporation, partnership, association, trust or other legal entity acquiring such an interest in a Condominium Unit shall automatically become a Member of the Association.

12.3 Voting Rights. Members shall be entitled to one (1) vote for every Condominium Unit such Member owns on all matters, with each vote weighted according to the percentage of ownership of the Common Elements attributable to such Unit, as set forth in **Exhibit B** attached hereto.

12.3.1 If a Unit is owned by more than one person, those persons shall agree among themselves how the vote for that Unit's membership is to be cast. Individual co-owners may not cast fractional votes. A vote by a co-owner for the entire Unit's membership interest shall be deemed to be pursuant to a valid proxy (See Section 12.5), unless another co-owner of the same Unit objects at the time the vote is cast, in which case such Unit's membership vote shall not be counted. In no event shall more than one (1) vote be cast with respect to any Unit.

12.3.2 Except as may be otherwise provided in this Declaration, all matters that come before the vote of the members of the Association, whether said matters are required to be voted on by the Members of the Association or are submitted to the vote of the Members of the Association, shall be determined by the majority vote of the Members present in person or by proxy at a properly noticed meeting. All matters requiring the consent or action of the Association which are not expressly subject to a vote of the members shall be determined by the majority vote of the members of the Board present in person, by telephone or by proxy at a properly noticed meeting or by their written consent in lieu of such meeting.

12.3.3 Notwithstanding any provisions set forth in this Declaration, the Articles of Incorporation or the Bylaws for

the Association, the Association shall not be empowered nor entitled to modify, amend, terminate, or extend this Declaration or any provision thereof without the consent of sixty-seven percent (67%) of the votes entitled to be cast by the Members and, during the Marketing Period, the consent of the Declarant.

12.4 Transfer. Except as otherwise expressly stated herein, any of the rights, interests and obligations of the Association set forth herein or reserved herein may not be transferred to or assigned to any other person or entity. No such transfer or assignment shall relieve the Association of any of the obligations set forth herein. Any such transfer or assignment shall not revoke or change any of the rights or obligations of any Owners as set forth herein.

12.5 Vote by Proxy. Votes allocated to a Unit may be cast pursuant to a proxy duly executed by a Unit Owner. If a Unit is owned by more than one person, each Owner of the Unit may vote or register protest to the casting of votes by the other Owners of the Unit through a duly executed proxy. Upon a Member's designation of a proxy, the secretary of the Association shall maintain the list of the persons entitled to vote on behalf of each Member and, until the Association is notified to the contrary, any action taken by a person purporting to act on behalf of a Member shall be binding upon the Member. A Unit Owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates eleven months after its date, unless it provides otherwise.

ARTICLE 13 PURPOSES AND POWERS OF ASSOCIATION

13.1 Nonprofit Purpose. The Association shall not operate for pecuniary gain or profit, shall not issue capital stock, and no part of the net earnings of the Association shall inure to the benefit of any member or individual (except that reasonable compensation may be paid for services rendered by Declarant, an Owner or an affiliate thereof).

13.2 Association Powers. The Association is hereby granted all powers necessary to govern, manage, maintain, repair, administer, and regulate the Project and to perform all of the duties required of it. Notwithstanding the above, without the consent of:

(a) the Unit Owners representing Allocated Interests of sixty-seven percent (67%) or more;

(b) sixty-seven percent (67%) of the First Mortgagees; and

(c) during the Marketing Period, the consent of the Declarant:

the Association shall not be empowered to do the following:

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

(ii) Except as otherwise provided herein, subdivide any Condominium Unit.

13.2.1 In furtherance of the Association purposes, the Association (by action of its Board of Directors, unless otherwise noted in the Articles of Incorporation or in the Declaration) shall have full power to:

- (a) Adopt and amend bylaws and rules and regulations;
- (b) Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from Unit owners;
- (c) Hire and terminate managing agents, exclusive rental manager or managers, and other employees, agents, and independent contractors;
- (d) Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Unit owners on matters affecting the Project;
- (e) Make contracts and incur liabilities;
- (f) Regulate the use, maintenance, repair, replacement, and modification of Common Elements;
- (g) Cause additional improvements to be made as a part of the Common Elements;
- (h) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, subject to the provisions of Sections 7.4 and 25 hereof;
- (i) Grant easements, leases, licenses, and concessions through or over the Common Elements;
- (j) Impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Elements other than Limited Common Elements described in Sections 6.2.3 and 6.2.5 hereof;
- (k) Impose charges for late payment of assessments, recover reasonable attorney fees and other legal costs for collection of assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated, and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws, and rules and regulations of the Association;



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(l) Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid assessments;

(m) Provide for the indemnification of its officers and Board and maintain director's and officer's liability insurance;

(n) Assign its right to future income, including the right to receive Common Expense assessments, but only to the extent this Declaration expressly so provides;

(o) Exercise any other powers conferred by the Declaration or Bylaws;

(p) Exercise all other powers that may be exercised in the State of Colorado by legal entities of the same type as the Association; and

(q) Exercise any other powers necessary and proper for the governance and operation of the Association.

13.3 Limitations on Association's Powers During the Marketing Period. Notwithstanding any provisions in this Declaration, the Articles of Incorporation or Bylaws for the Association, the Association shall not be entitled nor empowered to do the following during the Marketing Period without the written consent and approval of the Declarant:

(a) Make design review decisions;

(b) Make amendments, modifications, terminations, or extensions to this Declaration, including any plats or maps, and the Articles of Incorporation and Bylaws for the Association;

(c) Prepare annual budgets;

(d) Do any of the acts listed in Section 13.2 hereof;

(e) Transfer the Common Elements pursuant to Section 7.4 hereof; and

(f) Adopt a plan for reconstruction or sale pursuant to Article 20 hereof.

13.4 Association As Attorney-in-Fact. The title to any Condominium Unit is hereby declared and expressly made subject to the terms and conditions hereto, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or any prior Owner shall constitute the appointment of the Association as the Owner's attorney-in-fact for the purposes expressly set forth in this Declaration. The Association, as attorney-in-fact, shall have full and complete authorization, right and power to:



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(a) make, execute and deliver any contract, deed or other document with respect to the interest of the Owner of a Condominium Unit for the purposes expressly set forth in this Declaration; and

(b) execute, deliver and file of record with the office of the Clerk and Recorder of Pitkin County, Colorado, such instruments, deeds, Condominium Maps and Condominium Declaration amendments and supplements as are necessary or desirable for the purposes expressly set forth in this Declaration.

13.5 Owner Compliance. Each Owner shall comply strictly with the provisions of this Declaration, any supplement or amendment hereto, the Articles of Incorporation and Bylaws of the Association and all decisions, resolutions, rules and regulations of the Association adopted in accordance with this Declaration and the Articles of Incorporation and Bylaws of the Association. Failure to comply with any of the same shall be grounds for an action to recover any amounts due, for damages or injunctive relief or both, together with attorneys fees and costs incurred in connection therewith, brought by the Association on behalf of the Owners, or, in a proper case, by any aggrieved Owner.

13.6 Maintenance of Common Elements. The Association shall have the duty and obligation of cleaning and maintaining, repairing, or reconstructing each of the General Common Elements within the Project including required landscaping. The cost of maintenance and repair of General Common Elements shall be a Common Expense of all of the Owners. The cost of cleaning and maintenance and repair of Limited Common Elements shall be an expense of the owner to which such Limited Common Element(s) are appurtenant. The Association shall not be required to obtain the prior approval of the Owners to cause such maintenance or repairs to be accomplished.

13.7 Other Duties of the Association. In addition to all other rights, duties, privileges and liabilities of the Association, as provided by this Declaration and its Articles of Incorporation and amendments, the Association shall provide to the Owners the following duties and services set forth at subsections (a), (b), (c), (e), (f), (g), (h), and (j) and may provide the following duties and services set forth at subsections (d) and (i), all of which shall be paid as a part of the Common Expense assessment:

(a) Maintenance, repair and restoration of the General Common Elements, except only as otherwise provided;

(b) Administration and management of the Common Elements;

(c) Provision and maintenance of heating, lighting, and other utility services for all common areas through agreements for service with utility providers;



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(d) Provision and maintenance of telecommunication and security systems for Common Elements. If practical and feasible, the Association may offer to provide and maintain such systems within a Condominium Unit and a Unit Owner contract with the Association to provide such systems and services. The Association shall charge such Unit Owner the reasonable costs and expenses associated with such service, which if unpaid shall be treated as an assessment and recoverable as set forth in Article 18.

(e) Obtaining and maintaining of all required insurance as hereafter provided;

(f) The enforcement of all of the provisions of this Declaration and the Association's rules and regulations and the collection of all obligations and assessments owed to the Association by the Owners;

(g) Acting as attorney-in-fact for the Owners in accordance with this Declaration;

(h) Performing all other acts required by this Declaration, or the Articles of Incorporation and Bylaws of the Association, or any amendments thereto;

(i) In addition to the foregoing, the Association shall have the right to hire one or more persons including a management agent, to perform, manage, direct, or contract, subject to Association approval, for such services. No contract or agreement for the employment of a management agent or professional manager for the Project shall be for a term in excess of three years and any such agreement shall provide that the same may be terminated with or without cause and without payment of any termination fee on 180 days prior written notice.

(j) Undertake any maintenance and/or repair of structures or facilities, related to the Project, if such obligation is specifically required by the terms and conditions of any governmental approval or associated agreement for the Project.

ARTICLE 14

MAINTENANCE RESPONSIBILITY FOR UNIT

14.1 Owner's Responsibility. Each Owner shall have the obligation to maintain and keep in good repair all improvements installed or constructed by the Owner within his Unit, including, but not limited to, the interior surfaces of walls, ceilings and floors (including any Owner installed interior finish, dry wall or wall board surfaces, carpeting, tile, wallpaper, paint or other covering), internally installed utility distribution services such as water, light, gas, power, sewer, security system, telephone and air conditioning, and all doors, windows, and window panes, lamps and accessories installed by an Owner, as well as all fixtures and appliances located within such Owner's Unit.



14.1.1 An Owner shall not be responsible for repair occasioned by damage as described in Article 19 hereof, unless such damage is due to the act or negligence of Owner, or the Owner's guests, invitees, or tenants.

14.1.2 An Owner shall reimburse the Association for any expenditure incurred for replacing and repairing of any Common Element and related facility, damaged through fault of Owner, or the Owner's guests, invitees, or tenants, and the Association shall be entitled to assess such Owner for such amounts which shall be payable, collectible and enforceable in the same manner as assessments pursuant to Article 18 hereof.

14.1.3 No Owner shall alter any General or Limited Common Element without the prior written consent of the Association.

14.2 Owner's Responsibility for Tenants Conduct. An Owner may elect to lease his/her Unit for use by a third party, subject to Section 15.3, provided the third party agrees to use the Unit and Common Elements for purposes consistent with this Declaration. Owner remains responsible to the Association for any loss, damage or destruction which occurs during any such period as if such Owner were occupying the assigned Unit. Nothing herein shall limit the ability of such Owner from asserting claims against such tenants or other third parties who may be responsible to the Owner.

14.3 Owner Remodeling. An Owner shall have the right to redecorate, remodel or reconstruct the interior of such Owner's Condominium Unit, provided that no reconstruction, redecoration or remodeling shall be made without the prior written consent of the Board if it would affect structural members, Common Elements, or the exterior appearance of the Buildings. Owner is responsible for securing all required governmental plan and permit approvals. Owner shall compensate the Association for all reasonable costs it may incur to retain consultants to review and comment upon Owner's proposed modifications, including, without limitation any legal expense. The Board may require that an Owner post funds in favor of the Association that can be immediately drawn upon by the Board in the event that the remodeling causes damage to other Units or Common Elements or is not completed within the time set forth in any construction schedule approved by the Board. The Board may require that such funds equal the greater of \$5000.00 or 5% of the written estimated cost of the proposed remodeling. Such right to repair, alter and remodel shall carry the obligation to replace any finished materials removed with similar or other types or kinds of finishing materials. In these instances where the prior written consent of the Board is required, the Owner, upon completion of the remodeling shall deposit with the Association a complete set of as-built plans describing the Owner remodeling.

14.4 Utility Lines. The Owner shall not be deemed to own any utilities or communication systems running through his Unit



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which serve one or more other Units except as tenants in common with the other Owners. No utilities shall be altered, changed, relocated or disturbed without the prior written consent of the Association.

14.5 No Impairment of Structural Soundness. An Owner shall neither perform nor permit any act or work that will impair the structural soundness or integrity of any Building or impair an easement or utility.

14.6 Exterior Changes. No Owner shall undertake or cause to be undertaken any maintenance, repair, replacement, removal, painting, decorating or other activity otherwise altering the exterior of a Unit or the Common Elements, without first obtaining the written consent of the Board and, during the marketing period, the written consent of the Declarant. Owner shall secure all required governmental plan and permit approvals. Owner shall compensate the Association for all reasonable costs it may incur to retain consultants to review and comment upon Owner's proposed modifications, including, without limitation any legal expense. The Board may require that an Owner post funds in favor of the Association that can be immediately drawn upon by the Board in the event that the exterior activity causes damage to other Units or Common Elements. The Board may require that such funds equal the greater of \$5000.00 or 5% of the written estimated cost of the proposed remodeling.

ARTICLE 15

ADMINISTRATION AND MANAGEMENT

15.1 Board of Directors. The Association, by and through the Board elected in accordance with the Articles of Incorporation and the Bylaws of the Association, shall have the duties of the general management, operation, and maintenance of the Project and the enforcement of the provisions of this Declaration and of the Articles of Incorporation and the Bylaws of the Association and rules and regulations adopted thereunder.

15.1.1 If appointed by the Declarant, in the performance of their duties, the officers and members of the Board are required to exercise the care required of fiduciaries of the Unit Owners. If not appointed by the Declarant, no member of the Board and no officer shall be liable for actions taken or omissions made in the performance of such member's duties except for wanton and willful acts or omissions.

15.1.2 The Board may not act on behalf of the Association to amend the Declaration, to terminate the common interest community, or to elect members of the Board or determine the qualifications, powers and duties, or terms of office of Board members, but the Board may fill vacancies in its membership for the unexpired portion of any term.



15.1.3 The Board may delegate any of its duties, powers and functions to any person or firm which will act as the Managing Agent at an agreed reasonable level of compensation.

15.2 Managing Agent. The Managing Agent, if any, shall perform the management, operation and maintenance functions delegated to it by the Board. These duties may include, without limitation, managing and maintaining the common areas and managing any of the activities of the Project.

15.3 Exclusive Rental Manager. An Owner may provide for the short term or long term rental of its Condominium Unit, subject to the following restrictions. The Association shall have the right to designate one or more approved and duly qualified rental manager(s) for the Units in the Project. The right to designate and approve exclusive rental manager(s) for such Units is hereby expressly granted to the Association. No Condominium Unit Owner shall be obligated to rent a Unit, however, if such owner desires to rent such Unit, then, in such event, the rental management of said Unit shall be undertaken by and through the approved rental manager. The Association may designate the Management Agent as the exclusive rental manager.

15.4 Budget. Within ninety (90) days after adoption of any proposed budget for the Association, the Board shall mail by ordinary first-class mail or otherwise deliver a summary of the budget to all the Unit Owners and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless, at that meeting, a majority vote of Members rejects the budget, the budget is ratified. If at such meeting, a quorum was not present, the budget shall be deemed ratified. In the event that the proposed budget is rejected, the periodic budget last ratified by the Members must be continued until such time as the Members ratify a subsequent budget proposed by the Board.

15.5 Marketing Period.

15.5.1 This Declaration provides for a period of Declarant control of the Association (the "Marketing Period"), during which period the Declarant, or persons designated by it, may appoint and remove the officers and members of the Board. The Marketing Period shall terminate no later than the earlier of:

(a) sixty days after conveyance to Unit Owners other than the Declarant, of seventy-five percent (75%) of the Units that may be created;

(b) two (2) years after the last conveyance of a Unit by the Declarant in the ordinary course of business; or

(c) two (2) years after any right to add new Units was last exercised.



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15.5.2 The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of the Marketing Period, but, in that event, the Declarant may require, for the duration of the Marketing Period, that specified actions of the Association or Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

15.6 Election of the Board during Marketing Period.

15.6.1 Not later than sixty (60) days after the conveyance of twenty-five percent (25%) of the Condominium Units that may be created, Unit Owners, other than the Declarant, shall elect at least one (1) member who shall not be Declarant, which shall result in Unit Owner representation of not less than twenty-five percent (25%) of the Board membership.

15.6.2 Not later than sixty (60) days after the conveyance of fifty percent (50%) of the Condominium Units that may be created, Unit Owners, other than the Declarant, shall elect member(s) who shall not be Declarant, which shall result in Unit Owner representation of not less than one-third (1/3) of the Board membership.

15.7 Election of Board after Marketing Period. Except as otherwise provided herein or by law, no later than the termination of the Marketing Period, the Unit Owners shall elect a Board of at least three members, but not more than five members, at least a majority of whom must be Unit Owners other than the Declarant or designated representatives of Unit Owners other than the Declarant. The Board shall elect the officers of the Association. The Board members and officers shall take office upon election.

15.8 Removal of Board Member. The Members by a two-thirds (2/3) vote of all Members present and entitled to vote at any meeting of the Members at which a quorum is present, may remove any member of the Board with or without cause, other than a member appointed by the Declarant.

15.9 Delivery of Association Documents. Within sixty (60) days after the Unit Owners other than the Declarant elect a majority of the members of the Board, the Declarant shall deliver to the Association all property of the Unit Owners and of the Association held by or controlled by the Declarant, including without limitation the following items:

(a) The original or a certified copy of the recorded Declaration as amended, the Association's Articles of Incorporation, Bylaws, minute books, other books and records, and any rules and regulations which may have been promulgated;

(b) An accounting for Association funds and financial statements, from the date the Association received funds and ending on the date the Marketing Period ends. The financial



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statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for or charged to the Association;

(c) The Association funds or control thereof;

(d) All of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Elements, and inventories of these properties;

(e) A copy, for the nonexclusive use by the Association, of any plans and specifications used in the construction of the improvements in the Project.

(f) All insurance policies then in force, in which the Unit Owners, the Association, or its directors and officers are named as insured persons;

(g) Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the Project;

(h) Any other permits issued by governmental bodies applicable to the Project and which are currently in force or which were issued within one year prior to the date on which Unit Owners other than the Declarant took control of the Association;

(i) Written warranties of any contractor, subcontractors, suppliers, and manufacturers that are still effective;

(j) A roster of Unit Owners and First Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;

(k) Employment contracts in which the Association is a contracting party; and

(l) Any service contract in which the Association is a contracting party or in which the Association or the Unit Owners have any obligation to pay a fee to the persons performing the services.

ARTICLE 16
ASSESSMENT FOR COMMON EXPENSES

16.1 Obligation. All Owners shall be obligated to pay the assessments imposed by the Board to meet the Common Expenses of maintenance, operation and management of the Project. Until the Association makes a Common Expense assessment, the Declarant shall pay all common expenses. After any assessment has been made by the Association, assessments shall be made no less frequently than annually and shall be based on a budget adopted no less frequently than annually by the Association.

16.2 Apportionment. Except as otherwise provided in this Declaration or by law, the percentage of Common Expenses to be paid by a Unit Owner shall be equal to such Owner's Allocated Interests in and to the Common Elements as set forth in Exhibit B.

16.3 Purpose of Assessments. The assessments levied by the Association through its Board shall be used for the purposes of promoting the health, safety, and welfare of the residents in the Project and for any other purpose reasonably related to the operation, maintenance and control of the Project, including, without limitation, costs of maintenance, repair and operation of the General Common Elements, including expenses of management, taxes and special assessments unless separately assessed, insurance premiums for insurance coverage required by this Declaration or as otherwise deemed desirable or necessary by the Board, landscaping and care of grounds, common lighting, repairs and renovations, wages, water, sewer and utility charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Board or the Managing Agent under or by reason of this Declaration, actions taken to enforce and ensure compliance with this Declaration or the terms and conditions of governmental approvals for the Project or any agreements relating to development of the Project, payment of any deficit remaining from a previous assessment period, the creation of a reasonable contingency or other reserve or surplus fund for the costs of maintenance, repair and renovation of the Common Elements, cost and expenses reasonably required by local governing bodies to bring the Project into compliance with applicable laws, for the cost of utilities and other services to be provided by the Association, for proposed capital expenditures and to compensate or account for any shortfall resulting from non-payment by owners, other costs and expenses relating to the General Common Elements, and for any other purpose allowable under the Act.

16.4 Excess Assessments. In the year in which there is an excess of assessments received over amounts actually used for the purposes described herein, and in the Bylaws, such excess may be applied against and reduce the subsequent year's assessments or be refunded to the members as the Board determines.



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16.5 Interest. Any past-due common-expense assessment or installment thereof shall bear interest at the rate established by the Association not exceeding twenty-one percent (21%) per annum or the maximum interest rate allowed by Colorado law, whichever is less. If, from time to time, no specific rate is established by the Board, the rate during such period shall be eighteen percent (18%) per annum, unless eighteen percent (18%) per annum exceeds the maximum interest rate allowed by Colorado law, in which case, the rate during such period shall be whatever the maximum interest rate is that is allowed by Colorado law.

16.6 No Waiver or Abandonment. No Unit Owner may be exempt from liability for payment of the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit against which the assessments are made.

ARTICLE 17

APPORTIONMENT OF CERTAIN EXPENSES

17.1 Limited Common Elements. Any charges apportioned to a Unit Owner, if any, for upkeep of a Limited Common Element shall be as provided in Section 13.6.

17.2 Benefit of Class of Owners. Any expense or portion thereof which the Board reasonably determines to be of benefit to or incurred by only one Owner or a group of Owners shall be borne by such Owner or such group. Any such expense shall be shared by the Owners within such group in accordance with their relative appurtenant percentage interests in and to the Common Elements as specified in Exhibit B.

17.3 Misconduct. If any Common Expense is caused by the misconduct of any Unit Owner, the Board may assess that expense exclusively against such Owner's Unit.

ARTICLE 18

COLLECTION OF COMMON EXPENSES

18.1 Assessment Lien. Declarant, for each Unit, shall be deemed to covenant and agree, and each Unit Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association annual Common Expense Assessments. Such assessments, including fees, charges, late charges, attorney fees, fines and interest charged by the Association shall be the personal obligation of the Unit Owner at the time when the assessment or other charges became or fell due.

The assessments of the Association shall be a continuing lien upon the Unit against which such assessment is made. Such lien for assessment shall attach from the due date of the assessment. A lien under this Section is prior to all other liens and encumbrances on a Unit except:



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(a) liens and encumbrances recorded before the recordation of the Declaration;

(b) a First Mortgage on the Unit recorded before the date on which the assessment sought to be enforced became delinquent; and

(c) liens for real estate taxes and other governmental assessments or charges against the Unit.

A lien under this section shall also be superior to a First Mortgage on the Unit recorded before the date on which the assessment sought to be enforced became delinquent to the maximum extent allowed by the Act.

To evidence the lien as herein permitted, the Board may, but shall not be required to, prepare a written notice setting forth the amount of such unpaid indebtedness, the amount of accrued penalty thereon, the name of the Owner of the Unit and a description of the Unit, and record the same in the office of the Clerk and Recorder of Pitkin County, Colorado.

This Section does not prohibit an action to recover sums for which this Section creates a lien or prohibit the Association from taking a deed in lieu of foreclosure. Sale or transfer of any Unit shall not affect the Association's lien except that sale or transfer of any Unit pursuant to foreclosure of any First Mortgage, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the Association's lien as provided in the Act. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Unit from continuing liability for any Common Expense Assessments thereafter becoming due, nor from the lien thereof.

18.2 Effect of Nonpayment of Assessments. Any assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within ten (10) days after the due date thereof shall bear interest at the rate as determined by the Board and the Association may also assess a late charge thereon. Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Unit. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid assessments, charges or fees, including attorney fees and costs for any collection action or foreclosure, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefor.

18.3 Working Fund. The Association or Declarant shall require the first Owner of each Condominium Unit (other than Declarant) to make a nonrefundable payment to the Association in



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an amount equal to one-sixth (1/6) of the annual Common Expense assessment against that Unit in effect at the closing thereof, which sum shall be held, without interest, by the Association as a working fund. Said working fund shall be collected and transferred to the Association at the time of closing of the sale by Declarant of each Unit, as aforesaid, and shall be maintained for the use and benefit of the Association. Such payment shall not relieve an Owner from making regular payments of assessments as the same become due. Upon the transfer of his Unit, an Owner shall be entitled to a credit from his transferee for any unused portion of the aforesaid working fund.

ARTICLE 19

INSURANCE

19.1 Insurance Required. Commencing not later than the time of the first conveyance of a Condominium Unit to a person other than a Declarant, the Association shall maintain, to the extent reasonably available:

(a) Property insurance on the Common Elements for broad form covered causes of loss; except that the total amount of insurance must be not less than the full insurable replacement cost of the insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies;

(b) Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements, insuring the Board, the Association, the Managing Agent, and their respective employees, agents, and all persons acting as agents. The Declarant shall be included as an additional insured in such Declarant's capacity as a Unit Owner and Board member. The Unit Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties. The amount of coverage shall be determined by the Board; and

(c) The Association may carry any other insurance it considers appropriate, including insurance on Units it is not obligated to insure, to protect the Association or the Unit Owners.

19.2 Scope of Insurance. In the case of a Building that contains Units having horizontal boundaries described in the Declaration, the insurance maintained under section 19.1(a) hereof must include the Units but need not include the finished interior surfaces of the walls, floors, and ceilings of the Units. The insurance need not include improvements and betterments installed by Unit Owners, but if they are covered,



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any increased charge shall be assessed by the Association to those Owners.

19.3 Cancellation of Insurance. If the insurance described in sections 19.1 and 19.2 hereof is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefore having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners.

19.4 Specific Provisions. Insurance policies carried pursuant to Sections 19.1 and 19.2 must provide that:

(a) Each Unit Owner is an insured person under the policy with respect to liability arising out of such Unit Owner's interest in the Common Elements or membership in the Association;

(b) The insurer waives its rights to subrogation under the policy against any Unit Owner or member of his household;

(c) No act or omission by any Unit Owner, unless acting within the scope of such Unit Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

(d) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

19.5 Adjustment of Claims.

19.5.1 Any loss covered by the property insurance policy described in Section 19.1(a) and Section 19.2 must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Unit Owners and lienholders as their interests may appear. Subject to the provisions of Section 19.8, the proceeds must be disbursed first for the repair or restoration of the damaged property, and the Association, Unit Owners, and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored or the Project is terminated.

19.5.2 The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Unit Owners causing such



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loss or benefitting from such repair or restoration all deductibles paid by the Association. In the event that more than one Condominium Unit is damaged by a loss, the Association in its reasonable discretion may assess each Unit Owner a pro-rata share of any deductible paid by the Association.

19.6 Owner's Responsibility for Insurance. An insurance policy issued to the Association does not obviate the need for Unit Owners to obtain insurance for their own benefit covering a Unit.

19.7 Certificates of Insurance. An insurer that has issued an insurance policy for the insurance described in Sections 19.1 and 19.2 of this section shall issue certificates or memoranda of insurance to the Association and, upon request, to any Unit Owner or holder of a security interest. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, and each Unit Owner and holder of a security interest to whom a certificate or memorandum of insurance has been issued, at their respective last-known addresses.

19.8 Damage Repair.

19.8.1. Any portion of the Project for which insurance is required under this section which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

(a) The Project is terminated as a common interest community pursuant to the provisions of this Declaration and the Act;

(b) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;

(c) Unless otherwise required by operative state or local laws or regulations governing the public health or safety, the Owners representing Allocated Interests of eighty percent (80%) or more, including every Owner of a Condominium Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild; or

(d) Prior to the conveyance of any Unit to a person other than the Declarant, the holder of a deed of trust or mortgage on the damaged portion of the Project rightfully demands all or a substantial part of the insurance proceeds.

19.8.2 The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Project is not repaired or replaced, the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Project, and, except to the extent that other persons will be distributees, the insurance proceeds attributable



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to Condominium Units and Limited Common Elements that are not rebuilt must be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated, or to lienholders, as their interests may appear, and the remainder of the proceeds must be distributed to all the Unit Owners and lienholders in proportion to such Units' allocated interests in the Common Elements.

19.9 Fidelity Insurance. If any Unit Owner or employee of the Association with thirty or more units controls or disburses funds of the Association, the Association must obtain and maintain, to the extent reasonably available, fidelity insurance. Coverage shall not be less in aggregate than two months' current assessments plus reserves, as calculated from the current budget of the Association.

19.9.1 Any person employed as an independent contractor by the Association with thirty or more units for the purposes of managing the Project must obtain and maintain fidelity insurance in an amount not less than the amount specified in Section 19.9, unless the Association names such person as an insured employee in a contract of fidelity insurance, pursuant to Section 19.9.

19.9.2 The Association may carry fidelity insurance in amounts greater than required in Section 19.9 and may require any independent contractor employed for the purposes of managing the Project to carry more fidelity insurance coverage than required in Section 19.9.

19.10 Insurance Premiums are Common Expenses. Premiums for insurance that the Association acquires and other expenses connected with acquiring such insurance are Common Expenses.

ARTICLE 20 OBSOLESCENCE

20.1 Renewal and Reconstruction. The Owners representing Allocated Interests of eighty percent (80%) or more, and eighty percent (80%) of the First Mortgagees, may agree that the Project is obsolete and adopt a plan for the renewal and reconstruction.

20.1.1 If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the Owners as Common Expenses; provided, however, that an Owner, who is not a party to such a plan for renewal or reconstruction, may give written notice to the Association within fifteen (15) days after the date of adoption of such plan that his Condominium Unit shall be purchased by the Association for the fair market value thereof. The Association shall then have thirty (30) days within which to cancel such plan. If such plan is not canceled, the Condominium Unit of the requesting Owner shall be purchased according to the following procedures:



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(a) If such Owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within thirty (30) days after such agreement;

(b) If the parties are unable to agree on the fair market value, the date when either party notifies the other that he or it is unable to agree with the other shall be the "Commencement Date" from which all periods of time mentioned hereafter shall be measured. Within ten (10) days following the Commencement Date, each party shall nominate an appraiser in writing (and give notice of such nomination to the other party). If either party fails to make such a nomination, the appraiser nominated shall, within five (5) days after default by the other party, appoint and associate with him another appraiser. If the two designated or selected appraisers are unable to agree on the fair market value of the Condominium Unit, they shall appoint another appraiser to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, each appraiser previously appointed shall nominate two appraisers, and from the names of the four appraisers so nominated one shall be drawn by lot by any judge of any court of record in Colorado, and the name so drawn shall be such umpire. The nominations from whom the umpire is to be drawn by lot shall be submitted within ten (10) days of the failure of the two appraisers to agree, which, in any event shall not be later than twenty (20) days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value, or in the case of their disagreement, then such decision of the umpire, shall be final and binding and a judgment based upon the decision rendered may be entered in any court having jurisdiction thereof. The expenses and fees of such appraisers shall be borne equally by the Association and the Owner; and

(c) The sale shall be consummated within fifteen (15) days thereafter, and the Association, as attorney-in-fact, shall disburse such proceeds to the Association, Owner(s), and lienholders, as their interests may appear.

20.2 Sale of Property. The Owners representing Allocated Interests of eighty percent (80%) or more and eighty percent (80%) of the First Mortgagees may agree that the Project is obsolete and that the same should be sold. In such instance, the Association shall forthwith record a notice executed by the Association's president and secretary or assistant secretary setting forth such fact, and upon the recording of such notice the 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 sales proceeds shall be collected and apportioned between the Owners on the basis of each Owner's appurtenant interest in and to the Common Elements as specified in Exhibit B, and such apportioned proceeds shall be paid into separate accounts, each 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. The Association, as



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attorney-in-fact, shall use and disburse the total amount of each separate account, without contribution from one account to another, to the Association, Owner(s) and lienholders, as their interests may appear.

ARTICLE 21 CONDEMNATION

21.1 Total Condemnation. If a Condominium Unit is acquired by eminent domain or part of a Condominium Unit is acquired by eminent domain, leaving the Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the condemnation award must include compensation to the Unit Owner for that Condominium Unit and its Allocated Interests whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides, that Condominium Unit's Allocated Interests are automatically reallocated to the remaining Condominium Units in proportion to the respective Allocated Interests of those Condominium Units before the taking. Any remnant of a Condominium Unit remaining after part of a Condominium Unit is taken under this Section 21.1 is thereafter a General Common Element.

21.2 Partial Condemnation. Except as provided in Section 21.1, if part of a Condominium Unit is acquired by eminent domain, the award must compensate the Unit Owner for the reduction in value of the Unit and its interest in the Common Elements whether or not any Common Elements are acquired. Upon acquisition, unless the decree otherwise provides:

(a) That Unit's Allocated Interests are reduced in proportion to the reduction in the size of the Unit; and

(b) The portion of Allocated Interests divested from the partially acquired Unit is automatically reallocated to that Unit and to the remaining Units in proportion to the respective interests of those Units before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced Allocated Interests.

21.3 Condemnation of Common Elements. If part of the Common Elements are acquired by eminent domain, that portion of any award attributable to the Common Elements taken must be paid to the Association. Any portion of the award attributable to the acquisition of a Limited Common Element must be equally divided among the owners of the Units to which that Limited Common Element was allocated at the time of acquisition. For the purposes of acquisition of a part of the Common Elements other than the Limited Common Elements under this section 21.3, service of process on the Association shall constitute sufficient notice to all Unit Owners, and service of process on each individual Unit Owner shall not be necessary.

21.4 Recordation of Decree. The court decree shall be recorded in the office of the Clerk and Recorder of the County of Pitkin.

21.5 Confirmation of Reallocations. The reallocations of Allocated Interests pursuant to this section shall be confirmed by an amendment to the Declaration prepared, executed, and recorded by the Association.

ARTICLE 22 STATEMENT OF ACCOUNT

22.1 Statement of Assessments. The Association shall furnish to a Unit Owner or such Unit Owner's designee or to a holder of a Mortgage or its designee upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Association's registered agent, a statement setting forth the amount of unpaid assessments currently levied against such Owner's Unit. The statement shall be furnished within fourteen (14) business days after receipt of the request and is binding on the Association, the Board, and every Unit Owner. If no statement is furnished to the Unit Owner or holder of a Mortgage or their designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a priority lien upon the Unit for unpaid assessments which were due as of the date of the request.

22.2 Grantee and Grantor Both Responsible. The grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for the Common Expenses and other assessments provided herein up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore, subject only to the limitations set forth in Section 22.1. The term "grantee" as used in this section shall not apply to the holder of any First Mortgage upon a Condominium Unit, or to any person or entity acquiring title to a Condominium Unit by either sheriff's or public trustee's deed through foreclosure, or who acquires title by a deed given in lieu of foreclosure of a Mortgage. Nothing herein shall be construed to limit or diminish the Association's lien rights and priorities as set forth in Article 18 herein.

ARTICLE 23 TERMINATION OF MECHANICS LIEN RIGHTS AND INDEMNIFICATION

23.1 Mechanics Liens. Subsequent to the completion of the improvements described on the Condominium Map, no labor performed or materials furnished and incorporated into a Unit with the consent or at the request of the Unit Owner or his agent or his contractor or subcontractor shall be the basis for filing of a lien against the Condominium Unit of another Owner not expressly consenting to or requesting the same, or against the Common Elements, except as to the undivided interest of the Unit of the Owner for whom such labor or materials shall have been furnished.



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23.2 Indemnification. Each Owner shall indemnify and hold harmless each of the other Owners from and against any and all liability, loss or damage, including reasonable attorney's fees, that the other Owners incur as a result of the claims of any lien against the indemnifying Owner's Unit or any part thereof for labor performed, or for materials furnished in work on such Owner's Unit.

ARTICLE 24
MORTGAGING A UNIT - PRIORITY

24.1 Encumbrances. Any Owner shall have the right from time to time to mortgage or encumber his interest in a Condominium Unit by a Mortgage. The Owner of a Condominium Unit may create junior mortgages on the following conditions:

24.1.1 That any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, liens for Common Expenses and other obligations created by this Declaration, the Articles of Incorporation, and Bylaws of the Association.

24.1.2 That the holder of any junior mortgage shall release, for the purpose of restoration of any improvements upon the Project, all of his right, title and interest in and to the proceeds under insurance policies upon said Project wherein the Association is named insured. Such release shall be furnished upon written request by the Association.

ARTICLE 25
PROPERTY FOR COMMON USE

25.1 Association Property. The Association may acquire for the use and benefit of all of the Owners, real and personal property and may dispose of the same by sale or otherwise, and any such property shall be deemed General Common Elements.

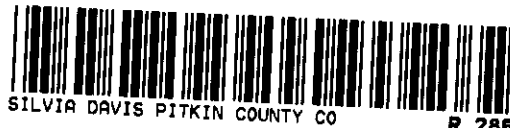
ARTICLE 26
SPECIAL DECLARANT RIGHTS AND ADDITIONAL RESERVED RIGHTS

26.1 Special Declarant Rights. Declarant hereby reserves the following Special Declarant Rights and Additional Reserved Rights for a time period running for ten (10) years commencing from the date of the recording of this Declaration.

26.1.1 Completion of Improvements. The right to complete the Project, including all Buildings and Improvements.

26.1.2 Exercise of Development Rights. The right to exercise any expansion or Development Right reserved in Article 26, Article 27, or any other provision of this Declaration.

26.1.3 Sales Management and Marketing. The right to maintain a sales and management office in any Unit(s) designated by Declarant from time to time, upon written notice to the Board,



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the right to maintain signs advertising the Project, and the right to maintain a sales model Unit in any Unit owned by the Declarant. The sales and management office and models shall be considered Units and may be sold by the Declarant.

26.1.4 Construction Facilities. The right of the Declarant and its employees, representatives, agents, and contractors to maintain on the Project temporary construction facilities and construction materials, staging yards, and other facilities reasonably required during the construction and sale period for the Condominium Units.

26.1.5 Construction Easements. The right to use easements through the Common Elements for the purpose of making improvements within the Project or within real estate which may be added to the Project, and the right to use, and to permit others to use, easements through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations under the Act and this Declaration.

26.1.6 Master Association. The right to make the Project subject to a Master Association.

26.1.7 Merger. The right to merge or consolidate a Project with another Project of the same form of ownership.

26.1.8 Control of Association and Board of Directors. The right to appoint or remove any Officer of the Association or any Board member during the Marketing Period.

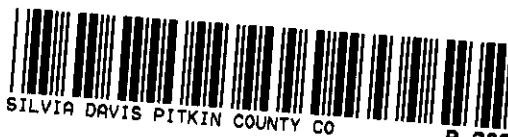
26.1.9 Amendment of Declaration. The right to amend the Declaration in connection with the exercise of any Development Rights.

26.1.10 Amendment of Map. The right to amend the Condominium Map in connection with the exercise of any Development Rights.

26.2 Additional Reserved Rights. In addition to the Special Declarant Rights set forth in Section 26.1 above, Declarant also reserves the following additional rights (the "Additional Reserved Rights").

26.2.1 Dedications. The right to establish, from time to time, by dedication or otherwise, utility and other easements for purposes including but not limited to streets, paths, walkways, ski-ways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions for the benefit of and to serve the Unit Owners within the Project.

26.2.2 Use Agreements. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of parking and/or recreational facilities, which may or may not



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be a part of the Project for the benefit of the Unit Owners and/or the Association.

26.2.3 Other Rights. The right to exercise any additional reserved right created by any other provision of this Declaration or otherwise permitted by the Act.

26.3 Rights Transferable. Any Special Declarant Right or Additional Reserved Right created or reserved under this Article for the benefit of Declarant may be transferred to any Person by an instrument describing the rights transferred and recorded in every county in which any portion of the Project is located. Such instrument shall be executed by the transferor Declarant and the transferee.

ARTICLE 27

RESERVATION OF EXPANSION AND DEVELOPMENT RIGHTS

27.1 Expansion Rights. Declarant does not reserve the right to expand this condominium ownership project.

27.2 Development Rights. Declarant does not reserve the right to construct additional Units on the Land.

27.3. Combination or Subdivision of Units. Declarant reserves unto itself, its successors, transferees and assigns the right, to be held by Declarant or any other person at any time owning a Unit, to combine or subdivide such Unit or Units to create spaces larger or smaller than such Unit or Units as shown on the Condominium Map for the purposes of either ownership, conveyancing or leasing; provided, however, that the exercise of such right shall not increase or decrease the ownership interest in the Common Elements of, or the percentage of common expenses to be paid by, any condominium Owner not involved in such combination or subdivision and the total number of Units shall not exceed nine (9).

27.4 Amendment of the Declaration.

27.4.1 If Declarant elects to exercise any or all of the expansion rights, development rights or other special rights reserved in this Article, if any, Declarant shall record an amendment to the Declaration with the land records of Pitkin County describing at a minimum the legal description of the resulting Units; a description of resulting improvements; a description of any additional Common or Limited Common Elements; and a schedule indicating the resulting reallocation of the Allocated Interests so that the Allocated Interests appurtenant to each Unit, are apportioned according to the total, relative amount of square footage for the total number of Units submitted to the Declaration. The Allocated Interests appurtenant to each Unit in the Project, as changed, shall be based on the relative square footage of each of the Units to the total square footage of all of the Units in the Project, as changed.



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27.4.2 Amendment of the Condominium Map. Declarant shall, contemporaneously with the Amendment of the Declaration, file an amendment of the Condominium Map showing the location of the changed Improvements constructed. The Amendment to the Map shall substantially conform to the requirements contained in this Declaration.

27.4.3 Declaration Operative on New Units. Any such changed Units and improvements thereon shall be subject to all the terms and conditions of this Declaration and of any amendments to the declaration or supplemental declarations, and shall be subject to condominium ownership with all the incidents pertaining thereto as specified herein upon recordation of the amendments to or supplemental Condominium Maps and amendments to or supplemental Condominium Declarations.

27.4.4 Withdrawal Rights. Declarant does not reserve the right to withdraw all or any portion of the Land or Improvements, including a Building, from the Project.

27.5 Interpretation.

27.5.1 Recording of amendments to the Declaration and Condominium Map in the office of the Clerk and Recorder of the County of Pitkin shall automatically:

(a) Vest in each existing Unit Owner the reallocated Allocated Interests appurtenant to his Condominium Unit; and

(b) Vest in each existing Mortgagee a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Condominium Unit.

27.5.2 Upon the recording of an amendment to the Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Property, as changed. All conveyances of Condominium Units after such changes shall be effective to transfer rights in all Common Elements as changed, whether or not reference is made to any amendment to the Declaration or Map. Reference to the Declaration and Condominium Map in any instrument shall be deemed to include all amendments to the Declaration and Condominium Map without specific reference thereto.

27.6 Maximum Number of Units. The maximum number of Condominium Units in the Project shall not exceed nine (9).

27.7 Construction. Physical changes in the Project made by Declarant as permitted hereby shall be of a quality equal to or better than the improvements previously constructed on the property, but need not be of the same size, style or configuration.

27.8 Construction Easement. Declarant expressly reserves the right to perform warranty work, and repairs and construction work and to store materials in secure areas, in Units and in



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Common Elements, and the future right to control such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of any Unit Owner or Mortgagee. Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Land for the purpose of furnishing utility and other services to the Buildings and Improvements. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey improvements within those easements anywhere in the Common Elements not occupied by an improvement containing Units. If Declarant grants any such easements, the Declaration and Condominium Map will be amended to include reference to the recorded easement.

27.9 Reciprocal Easements. Intentionally Left Blank.

27.10 Termination of Expansion and Development Rights. The expansion and development rights reserved to Declarant, for itself, its successors and assigns, shall expire ten years from the date of recording this Declaration, unless the expansion and development rights are:

- (a) extended as allowed by law; or
- (b) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Board of Directors may impose on the subsequent exercise of the Expansion and Development Rights by Declarant.

27.11 Declarant's Exercise of Special Declarant Rights and Other Development Rights. The rights reserved by Declarant under this Declaration accrue to Declarant and transferees of Declarant. No other party may claim any entitlement or direct or indirect benefit from such rights. The determination to utilize such rights or not utilize such rights is a determination to be made in the sole and absolute discretion of Declarant or Declarant's transferees from time to time.

ARTICLE 28

REVOCATION OR AMENDMENT OF DECLARATION

28.1 Revocation. This Declaration shall not be revoked unless the Owners representing sixty-seven percent (67%) or more of the Allocated Interests and sixty-seven percent (67%) or more of the holders of any First Mortgage covering or affecting any or all of the Condominium Units consent to such revocation by an instrument(s) duly recorded in the real property records of Pitkin County, Colorado; except only as otherwise provided in Articles 19, 20 and 21 pertaining to the appointment of the Association as attorney-in-fact in the event of damage, destruction, obsolescence or condemnation of the Project.



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28.2 Amendment. This Declaration shall not be amended except as otherwise herein provided, unless the Owners representing Allocated Interests of sixty-seven percent (67%) or more, sixty-seven percent (67%) of the First Mortgagees, and, during the Marking Period, the Declarant, all consent and agree to such amendment by instrument(s) duly recorded; provided, however, that the percentage of the undivided interest in the Common Elements appurtenant to each Unit or the proportionate expenses chargeable against any Unit or Owner thereof, as expressed in this Declaration, shall not be altered without the consent of all of the Unit Owners affected thereby expressed in an amended Declaration duly recorded.

28.2.1 Notwithstanding the provisions of this Article 28, in the event of the combination or division of a Condominium Unit or Units pursuant to the terms set forth in Section 6.5 or 6.6, the Owner or Owners of the Condominium Unit or Units subject to such combination or division and the holders of any recorded First Mortgage covering or affecting any such Condominium Unit or Units may amend this Declaration to reflect the adjustment (which adjustment shall be based upon the relative square footage of the resulting spaces) between the resulting spaces and the Owner or Owners thereof with respect to the Allocated Interests attributable to such resulting spaces; provided, that any such amendment shall not increase or decrease the percentage ownership in the Common Elements of, or the percentage of Common Expenses to be paid by, any Unit Owner not involved in such combination or division.

28.2.2 Notwithstanding any other provisions of this Article 28, in the event of the exercise of any Development Rights by the Declarant pursuant to Article 26 or 27 hereof, the Declarant may amend the Declaration to reflect any adjustment (which adjustment must be based upon the relative square footage of the resulting spaces) between the resulting spaces and the Owner or Owners thereof with respect to the ownership interest in the Common Elements and the percentage of common expenses attributable to such resulting spaces; provided, that any such amendment shall not increase or decrease the ownership interests in the Common Elements of, or the percentage of common expenses to be paid by, any Owner not involved in such combination, division or partition.

28.3 Consent of Junior Mortgagees. The consent(s) of any junior mortgage holders shall not be required under the provisions of this Article.

28.4 Voting by First Mortgagees. In determining the appropriate percentage approval of the First Mortgagees, whenever such approval may be required for any action taken by the Owners or the Association pursuant to this Declaration, each First Mortgagee shall have one vote for each First Mortgage owned by it.

28.5 Challenge to Amendments. No action to challenge the validity of an amendment adopted by the Association pursuant to



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this section may be brought more than one year after the amendment is recorded.

28.6 Recordation. Every amendment to the Declaration must be recorded in every county in which any portion of the Project is located and is effective only upon recordation. An amendment must be indexed in the grantee's index in the name of the Project and the Association and in the grantor's index in the name of each person executing the amendment.

28.7 Consent Required for Certain Amendments. Except as otherwise provided in this Declaration or the Act, no amendment may create or increase Special Declarant Rights, increase the number of Units, or change the boundaries of any Unit or the Allocated Interests of a Unit in the absence of a vote or agreement of Unit Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association, including sixty-seven percent (67%) of the votes of the allocated to the Units not owned by the Declarant, are allocated. Except as otherwise provided in this Declaration, no amendment may change the uses to which any Unit is restricted, in the absence of a vote or agreement of Unit Owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated.

28.8 Association Certification. Amendments to the Declaration required by this Article to be recorded by the Association shall be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association. In the event of an amendment to the Declaration or the Condominium Map by the Owners, the Association shall record the amendment by the Owners with a certificate from the Association by any officer designated for that purpose, or, in the absence of the designation, by the president, that requisite number of Owners and First Mortgagees have consented to the amendment.

28.9 Expenses. All expenses associated with preparing and recording an amendment to the Declaration shall be the sole responsibility of:

(a) In the case of an amendment pursuant to reallocation of Limited Common Elements, relocation of boundaries between adjoining Units, and subdivision of Units, the Unit Owners desiring the amendment;

(b) In the case of an amendment pursuant to allocation of Common Element not previously allocated as a Limited Common Element, recordation of new plats and maps, and exercise of Development Rights, the Declarant; and

(c) In all other cases, by the Association.



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ARTICLE 29
MISCELLANEOUS

29.1 Registration by Owner of Mailing Address.

29.1.1 Each Owner shall register his mailing address with the Association, and except for monthly statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be delivered personally or sent by regular United States Mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands or other notices intended to be served upon the Board or the Association shall be delivered personally or sent by regular United States Mail, postage prepaid, to the address of the Association as designated in the Articles of Incorporation and Bylaws of the Association.

29.2 Additional Rights of First Mortgagees. In addition to any other rights provided in this Declaration, any First Mortgagee who shall make a request in writing to the Association, shall have the following additional rights:

29.2.1 To be furnished a copy of the annual financial statement of the Association, such statement to be furnished at the time the same is furnished to the Owners.

29.2.2 To be given written notice by the Association of any meeting of the Association called for the purpose of considering any amendment, revocation or change to the Declaration or Articles of Incorporation. Such notice shall state the nature of any such change being proposed.

29.2.3 To be given written notice of any default by an Owner of a Condominium Unit encumbered in favor of the First Mortgagee in the performance of any duty or obligation required hereunder or under the Articles of Incorporation, Bylaws, or rules and regulations of the Association, which default remains uncured more than 30 days following notice to the defaulting Owner.

29.2.4 Upon reasonable notice, to examine the books and records of the Association during normal business hours.

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

29.4 Applicability of the Act. The provisions of this Declaration shall be in addition and supplemental to the Act, as herein defined.



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

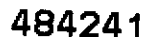
29.6 Applicable Law. This Declaration is filed in the records of Pitkin County, Colorado and it is agreed that the proper jurisdiction and venue of any action pertaining to the interpretation or enforcement of this Declaration shall be in the District Court of Pitkin County, Colorado.

29.7 Binding Agreement. It is understood and agreed that this Declaration shall be binding upon the heirs, executors, administrators and assigns of the parties hereto.

29.8 Reference to Ownership Interests. Whenever in this Declaration or in the Articles of Incorporation or Bylaws of the Association reference is made to a specific percentage interest of Owners, such reference shall be deemed to mean the total aggregate appurtenant interest in and to the Common Elements as reflected in Exhibit B attached hereto and, unless the context otherwise requires, shall not be deemed to mean a percentage of owners by number of individual persons, partnerships, corporations or other entities.

29.9 Reservations by Declarant. Declarant reserves to itself and hereby grants to the Association the right to establish from time to time by dedication or otherwise, so long as same does not unduly interfere with the rights of any Unit Owner, utility and other easements, for purposes including but not limited to paths, walkways, drainage or recreation areas, parking or land areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions consistent with the condominium ownership of the Project to the best interest of all the owners and the Association in order to serve all the Owners within the Project.

29.10 Association as Attorney-in-Fact - Power of Attorney. This Declaration does hereby make the irrevocable appointment of the Association as attorney-in-fact for all owners to deal with the condominium property upon its destruction, obsolescence, repair or reconstruction or condemnation, and title to each condominium Unit is declared and expressly made subject to the terms and conditions hereof and acceptance by the grantee of a deed from the Declarant or from any Owner shall irrevocably constitute and appoint the Association their true and lawful attorney in their name, place and stead for the purpose of dealing with the Condominium Property upon its destruction, obsolescence, repair or reconstruction. In the event the Condominium Property is sold by the Association, as attorney-in-fact, pursuant to Articles 19-21, the Association shall record a notice in the office of the Clerk and Recorder of Pitkin County, Colorado, setting forth the circumstances of such sale, and this Declaration shall wholly terminate and expire upon the recording of such notice.



29.11 Term of Declaration. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of this 19 day of June, 2003.

434 EAST MAIN, LLC, a Colorado
Limited Liability Company

By: Austin Lawrence Partners, LLC,
Its Manager:

By: Gregory Hills, Manager

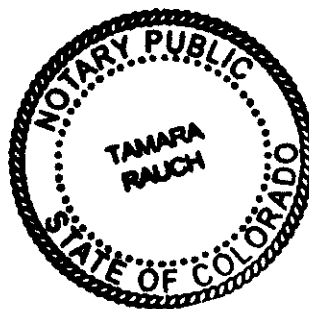
STATE OF COLORADO)
COUNTY OF PITKIN) ss.

Subscribed and sworn to before me this 19 day of June, 2003, by Gregory Hills, as Manger of Austin Lawrence Partners, LLC, the Manager of 434 East Main, LLC, a Colorado Limited Liability Company.

Witness my hand and official seal.

My commission expires: March 7, 2004

Notary Public



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EXHIBIT "A"
TO CONDOMINIUM DECLARATION
FOR
GALENA LOFTS CONDOMINIUMS
(a Condominium Common Interest Community)

LEGAL DESCRIPTION OF SUBJECT PROPERTY:

UNIT 1-B, AMENDED PLAT OF UNIT ONE, THE GALENA PLAZA CONDOMINIUMS SUBDIVISION EXEMPTION PLAT, according to the Condominium Map thereof recorded May 17, 1999 in Plat Book 49 at Page 82 and described in Condominium Declaration for Galena Plaza Condominiums recorded February 22, 1994 in Book 742 at Page 497 and Supplement to Condominium Declaration of The Galena Plaza Condominiums thereof recorded May 13, 1999 as Reception No. 431031.

County of Pitkin, State of Colorado

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EXHIBIT "B"
TO CONDOMINIUM DECLARATION
FOR
GALENA LOFTS CONDOMINIUMS
(a Condominium Common Interest Community)

PERCENTAGE INTEREST IN COMMON ELEMENTS
ASSIGNED TO EACH UNIT

<u>Unit #</u>	<u>Unit Square Footage</u>	<u>Percentage</u>
101	440	9.21%
102	377	7.89%
103	263	5.50%
104	440	9.21%
201	680	14.23%
202	382	7.99%
203	594	12.43%
301	801	16.76%
302	801	16.76%
Totals	4,778	100.00%