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Reception No. .... Charlotte Houston, Boulder County Recorder

CONDOMINIUM DECLARATION  
FOR  
GREGORY CREEK CONDOMINIUMS

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, Gregory Creek Partnership and William B. Bachman (hereinafter referred to as "Declarant") are the owners of real property situate in Boulder County, Colorado, which property is described on Exhibit A attached hereto and incorporated herein (hereinafter referred to as the "Property"); and

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

→ WHEREAS, the condominium project shall consist of forty-five (45) units, together with patios, walkways, parking facilities, trash collection facilities, drives, lawns, yards and other common facilities, which real property and improvements will hereafter be constructed, used and occupied as residential living units and related facilities; and

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

NOW, THEREFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with the land, shall be a burden and a benefit to Declarant, its successors and assigns, and any person acquiring or owning an interest in the real property and improvements, his devisees or assigns.

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

(a) "Apartment" or "apartment unit" or "unit" means an individual air space which is contained within the perimeter walls, floors, ceilings, windows, and doors of each unit in the buildings as shown on the condominium map filed for record and the condominium map to be filed for record, together with all fixtures and improvements therein contained but not including any of the structural components of the building in such unit.

(b) "Condominium unit" means an apartment unit, together with the undivided interest in the general and limited common elements appurtenant thereto.

(c) "Owner" means a person, firm, corporation, partnership, association, or other legal entity, or any combination thereof, who owns one or more condominium units.

(d) "General common elements" means and includes:

(1) The land on which the buildings are located, more particularly described on Exhibit A, and the condominium buildings;

(2) The foundations, columns, girders, beams, supports, perimeter and supporting walls, roofs, flues, standpipes, sidewalks, and driveways of the buildings;

(3) The lawns, walkways, and automobile parking areas;

(4) The installation of services for public utilities, including but not limited to electricity, sewer, gas, water including all pipes, ducts, flues, wires, cables and conduits used in connection therewith;

(5) Any mechanical areas and installations consisting of equipment and materials making up any central utility services, including furnaces, hot water systems, electrical systems and the like;

(6) In general, all apparatus and installations existing for common use;

(7) All other parts of the property and improvements necessary or convenient to its existence, maintenance and safety, or normally in common use.

(e) "Limited common elements" means those parts of the general common elements which are either limited to and reserved for the exclusive use of any owner of a condominium unit or are limited to and reserved for the common use of more than one, but fewer than all of the condominium unit owners, such as patios and yard areas adjacent thereto, storage facilities, parking areas, and the like.

(f) "Condominium project" means all of the units, general common elements and limited common elements submitted to condominium ownership by this Declaration.

(g) "Entire premises" or "property" means and includes the land, the buildings, all improvements and structures thereon, all owned in fee simple absolute, and all rights, easements, and appurtenances belonging thereto.

(h) "Common expense" means and includes expenses declared common expenses by provisions of this Declaration and the By-Laws of the condominium association; expenses for maintenance, repair, operation, management and administration of the general common elements; and all sums lawfully assessed against the common elements by the Board of Directors of the association.

(i) "Association" means the Gregory Creek Condominiums Association, Inc., a corporation not for profit, its successors and assigns, the Certificate of Incorporation and By-Laws of which shall govern the administration of this condominium property, the members of which shall be all of the owners of the condominium units.

(j) "Buildings" means the building improvements constructed upon the real property as shown on the map, originally and as the same may be supplemented.

(k) "Map" or "plans" means and includes the engineering surveys of the land locating thereon all of the improvements, the floor and ceiling plans, and any other drawing or diagrammatic plan depicting a part of or all of the improvements. The definition of map shall include two separate maps, one recorded in the Boulder County Clerk and Recorder's Office in Plan File P6, F3, Nos. 25 and 26, which map includes Lot 1, Gregory Creek, and a second map which will be recorded prior to the first conveyance of any condominium unit, which map will include Lots 2 and 3, Gregory Creek, as more particularly described in Exhibit A.

(l) "Mortgagee" means any person or entity named as mortgagee or beneficiary under any security instrument by which an owner's interest in his condominium unit is encumbered.

(m) "Declaration" means this Declaration and supplements and amendments thereto, if any.

2. CONDOMINIUM MAP. The map shall be filed for record prior to the first conveyance of any condominium unit. Such map shall consist of and set forth the following:

- (a) The legal description of the surface of the land;
- (b) The linear measurements and location, with reference to the exterior boundaries of the land, of the buildings and all other improvements heretofore built or to be built on said land by Declarant;
- (c) The linear measurements showing the thickness of the perimeter walls of the buildings; the bearing walls of the buildings and the perimeter walls of each unit; and
- (d) The floor plans which shall depict the boundaries (perimeter) of the apartment units, the unit designations, and the linear measurements of each unit.

As a part of the map, there shall be filed for record a certificate of a registered land surveyor certifying that the improvements as constructed conform substantially to the map and that the map fully and accurately depicts the layout, measurements, and location of all of the improvements on the land; the apartment unit designations, the dimensions of such units, and the elevations of the unfinished floors and ceilings.

In interpreting the condominium map or any part thereof, the existing physical boundaries of each of the separate units shall be conclusively presumed to be its boundaries.

Declarant hereby reserves unto themselves and the Association the right to amend the map until January 30, 1982, to conform it to the actual physical location of the building improvements or units and to any changes, modifications or alterations therein.

The map shall include the map previously recorded in the Boulder County Clerk and Recorder's Office in Plan File P6, F3, Nos. 25 and 26, which includes that portion of the condominium project on Lot 1, Gregory Creek Subdivision, and a second map to be recorded subsequent to this Declaration but prior to any sale of a unit. The second map shall include the portion of the condominium project on Lot 2 and Lot 3, Gregory Creek Subdivision.

3. DIVISION OF PROPERTY INTO CONDOMINIUM UNITS. The real property is hereby divided into 45 fee simple estates consisting of 45 separately designated apartment units. Such units shall be identified on the map by unit number. The remaining portion of the entire premises referred to as the general common elements shall be held in fee simple in common by the owners, with each of said owners owning an undivided interest in the general common elements appurtenant to a particular condominium apartment as is set forth on Exhibit B attached hereto and incorporated by reference.

4. LIMITED COMMON ELEMENTS. A portion of the common elements is reserved for the exclusive use of the individual owners of the respective units associated therewith, and such areas are designated as the "limited common elements". The limited common elements so reserved are the patios and balconies, parking spaces and other areas as shown on the map. Each such porch or patio is reserved to the exclusive use of the owner of the unit which has immediate access to, is associated with, and adjoins said porch or patio. No reference thereto need be made in any subsequent instrument of conveyance or other instrument affecting the condominium unit.

5. AUTOMOBILE PARKING. Each owner shall have a co-equal right to use parking areas not specifically designated by unit number on the map; provided, however, that the Association, through its Board of Managers, shall maintain control thereof and shall have the right to assign and to reassign to any owner a parking space. Any additional parking spaces shall be allocated for use as the Association sees fit.

6. INSEPARABILITY OF A CONDOMINIUM UNIT. Each unit and undivided interest in the general common elements appurtenant thereto shall together comprise one condominium unit which shall be inseparable and may be conveyed, leased, devised or encumbered only as a condominium unit.

7. DESCRIPTION OF CONDOMINIUM UNIT. Every contract for the sale of a condominium unit written prior to the filing for record of the map may legally describe a condominium unit by its identifying unit number followed by the words "Gregory Creek Condominiums", with further reference to the map thereof and the Declaration to be filed for record. Subsequent to the filing of the map and the recording of the Declaration, every deed, lease, mortgage, trust deed, will or other instrument may legally describe a condominium unit by its identifying unit number followed by the words "Gregory Creek Condominiums", with further reference to the map thereof filed for record and the recorded Declaration. Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the unit but also the common elements appurtenant thereto. Each such description shall be construed to include a non-exclusive easement for ingress and egress to an owner's unit and use of all of the general common elements.

8. SEPARATE ASSESSMENT AND TAXATION - NOTICE TO ASSESSOR. Declarant shall give written notice to the assessor of the County of Boulder, Colorado, of the creation of condominium ownership of this property, as is provided by law, so that each unit and the undivided interest in the general common elements appurtenant thereto shall be deemed a parcel and subject to separate assessment and taxation.

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

10. ABANDONMENT, SALE AND NON-PARTITIONABILITY OF COMMON ELEMENTS. The common elements shall be owned in common by all of the owners of the units and shall remain undivided, and no owner shall bring any action for partition or division of the common elements. A violation of this provision shall entitle the Association to personally collect, jointly and severally from the parties violating the same, the actual attorney's fees, costs and other damages the Association incurs in connection therewith. Further, all owners and the Association covenant that they shall neither by act nor omission, seek to abandon, subdivide, encumber, or sell the common elements without first obtaining the written consent of at least seventy-five percent (75%) of the first mortgagees of the individual condominium units. Each such first mortgagee shall have one vote for each mortgage owned by it. Any such action without the written consent of said mortgagee shall be null and void.

11. USE OF GENERAL AND LIMITED COMMON ELEMENTS. Each owner shall be entitled to exclusive ownership and possession of his unit. Each owner may use the general and limited common elements in

accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other owners or unreasonable interference with the use of other units by their respective owners.

12. USE AND OCCUPANCY OF CONDOMINIUM APARTMENTS. Each owner shall be entitled to the exclusive ownership and possession of his condominium apartment. Each condominium apartment shall be used for residential purposes only, and no condominium apartment shall be occupied for living or sleeping purposes by more persons than it was designed to accommodate safely. For the purposes of the foregoing sentence, each condominium apartment shall be deemed to have been designed to accommodate safely a maximum of two permanent occupants per bedroom. No condominium apartment shall be used at any time for any business or commercial activity, except as follows: (i) the owner thereof may lease or rent such condominium apartment for private residential living or sleeping purposes; (ii) Declarant or their nominee may use any condominium apartment(s) as a model or sales unit until all units owned by Declarant are sold; and (iii) the Association shall have the right, but not the obligation, to purchase and own any condominium unit for storage, recreation, or conference area, or any other uses which the Association determines is consistent with the operation of the project, and the Association may also maintain offices within the general common elements.

13. EASEMENTS FOR ENCROACHMENTS. In the event that any portion of the common elements encroaches upon any unit or units or in the event that any portion of a unit encroaches upon any other unit or units or upon any portion of the common elements or in the event any encroachment shall occur in the future as a result of (i) settling of a building; or (ii) alteration or repair to the common elements; or (iii) repair or restoration of a building or a unit(s) after damage by fire or other casualty, or condemnation or eminent domain proceedings; a valid easement shall exist for the encroachment and for the maintenance of the same so long as the building stands. In the event any one or more of the units or buildings or other improvements comprising part of the common elements are partially or totally destroyed and are then rebuilt or reconstructed in substantially the same location, and as a result of such rebuilding any portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the common elements or on the units for purposes of marketability of title or other purposes. In interpreting any and all provisions of the Declaration, subsequent unit deeds to and mortgages of units, the actual location of the 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 locations as indicated on the condominium map.

14. TERMINATION OF MECHANIC'S LIEN RIGHTS AND INDEMNIFICATION. No labor performed or materials furnished and incorporated in a unit with the consent or at the request of the unit owner or his agent or his contractor or subcontractor shall be the basis for filing of a lien against the unit of any owner, contractor or subcontractor, including to or requesting the same, or against the common elements. Each owner shall indemnify and hold harmless each of the other owners, as set forth in the By-Laws, from and against all liability arising from the claim of any lien against the unit of any other owner or against the common elements for construction performed or for labor, materials, services or other products incorporated in the owner's unit at such owner's request. The provisions herein contained are subject to the rights of the Managing Agent or Board of Directors of the Association as is set forth in Paragraph 15.

15. ADMINISTRATION AND MANAGEMENT.

(a) The administration and management of this condominium project shall be governed by this Declaration and the By-Laws of the Association. An owner of a condominium unit, upon becoming an owner, shall be a member of the Association and shall remain a member for the period of his ownership. The Association shall be governed by a Board of Directors as is provided in the By-Laws of the Association. The Association may delegate, by written appointment, any of its duties, powers and functions to any person or firm to act as managing agent at an agreed upon compensation; provided, however, that any agreement with any such person or firm shall not be for a term in excess of three years and shall be terminable on sixty (60) days written notice without cause or payment of a termination fee. Notwithstanding the foregoing, any such delegation shall not relieve the Association nor Board of Directors of any of their responsibilities set forth herein or in the By-Laws of the Association.

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

- (1) by act or omission, seek to abandon or terminate the condominium regime;
- (2) partition or subdivide the condominium unit;
- (3) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common elements;
- (4) use hazard insurance proceeds for loss to the improvements for other than the repair, replacement or reconstruction of such improvements.

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

16. CERTIFICATE OF IDENTITY. There shall be recorded, from time to time, a Certificate of Identity and the addresses of the persons then comprising the management body (directors and officers), together with the identity and address of the Managing Agent. Such Certificate shall be conclusive evidence thereof in favor of any person relying thereon in good faith, regardless of time elapsed since the date thereof. The first such Certificate shall be recorded as soon as possible after the conveyance of a condominium unit.

17. RESERVATION FOR ACCESS - MAINTENANCE, REPAIR AND EMERGENCIES. The Association shall have the irrevocable right, to be exercised by the Managing Agent or Board of Managers of the Association, to have access to each unit from time to time during reasonable hours, as may be necessary for the maintenance, repair or replacement of any of the general common elements therein or accessible therefrom, or

for making emergency repairs therein necessary to prevent damage to the general common elements or to another unit or units. Damage to the interior or any part of a unit or units resulting from the maintenance, repair, emergency repair or replacement of any of the general common elements or as a result of emergency repairs within another unit at the instance of the Association shall be a common expense of all of the owners; provided, however, that if such damage is the result of the misuse or negligence of a unit owner, then such unit owner shall be responsible and liable for all of such damage. All damaged improvements shall be restored to substantially the same condition of such improvements prior to damage. All maintenance, repairs, and replacements as to the general common elements, whether located inside or outside of units (unless necessitated by the negligence or misuse of a unit owner, in which case such expense shall be charged to such unit owner) shall be the common expense of all of the owners.

18. OWNERS' MAINTENANCE RESPONSIBILITY OF UNITS AND COMMON ELEMENTS. For purposes of maintenance, repair, alteration and remodeling, an owner shall be deemed to own the interior nonsupporting walls, the materials (such as, but not limited to, plaster, gypsum dry wall, paneling, wallpaper, paint, wall, and floor tile, and flooring, but not including the sub-flooring) making up the finished surfaces of the perimeter walls, ceilings and floors within the unit, including unit doors and windows. The owner shall not be deemed to own lines, pipes, wires, conduits or systems (which for brevity are herein and hereafter referred to as utilities) running through his unit which serve one or more other units, except as a tenant in common with the other owners. Such utilities shall not be disturbed or relocated by an owner without the written consent and approval of the Board of Managers. Such right to repair, alter, and remodel is coupled with the obligation to replace any finishing or other materials removed with similar or other types or kinds of materials. An owner shall maintain and keep in repair the interior of his own unit, including the fixtures thereof. All fixtures and equipment installed within the unit, commencing at a point where the utilities enter the unit, shall be maintained and kept in repair by the owner thereof. An owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement or hereditament. An owner shall also keep the patio area appurtenant to his own unit in a clean and sanitary condition. All other maintenance or repairs to any limited common element, except as caused or permitted by the owner's negligence, misuse, or neglect thereof, shall be a common expense of all of the owners.

The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the project or the enforcement of this Declaration. The Association shall hold for the use and benefit of all of the owners tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the owners in the same proportion as their respective interests in the common elements. Such interest shall not be transferable except with the transfer of a condominium unit. A transfer of a condominium unit shall transfer to the transferee ownership of the transferor's beneficial interest

in such property without any reference thereto. Each owner may use such property in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of other owners. The transfer of title to a condominium unit under foreclosure shall entitle the purchaser to the interest in such personal property associated with the foreclosed condominium unit.

19. COMPLIANCE WITH PROVISIONS OF DECLARATION, BY-LAWS OF THE ASSOCIATION. Each owner shall comply strictly with the provisions of this Declaration, the Certificate of Incorporation and By-Laws of the Association, and the decisions and resolutions of the Association, and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, and for reimbursement of all attorney's fees by the Managing Agent or Board of Directors in the name of the Association on behalf of the owners or, in a proper case, by an aggrieved owner.

20. REVOCAION OR AMENDMENT TO DECLARATION. Except as provided in Paragraph 28 of this Declaration, this Declaration shall not be revoked unless 75% of the owners and 75% of the holders of all recorded mortgages or deeds of trust covering or affecting all of the condominium units consent and agree to such revocation by instrument(s) duly recorded. This Declaration shall not be amended unless 75% of the owners and 75% of the holders of all recorded mortgages or deeds of trust covering or affecting all condominium units consent and agree to such amendment by instrument(s) duly recorded; provided, however, that the undivided interest in the common elements appurtenant to each unit, as expressed in this Declaration, shall have a permanent character and shall not be altered without the consent of all of the unit owners and all of the holders of all recorded mortgages or deeds of trust covering or affecting all of the condominium units expressed in an amended Declaration duly recorded.

21. ASSESSMENTS.

(a) Agreement to Pay Assessment. Declarant, for each condominium unit owned by it within the project, and for and as the owner of the project and every part thereof, hereby covenants, and each owner of any condominium unit by the acceptance of a deed therefor, whether or not it be so expressed in the deed, shall be deemed to covenant and agree with each other and with the Association to pay to the Association regular assessments made by the Association for the purposes provided in this Declaration, and special assessments for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time in the manner provided in this paragraph.

(b) Amount of Regular Assessments. The regular assessments against all condominium units shall be based upon advance estimates of annual cash requirements of the Association to provide for the payment of all estimated expenses growing out of or connected with the functions to be performed by the Association as provided herein, in the Articles and By-Laws of the Association, or as provided by law or agreed upon by the owners as members of the Association, including the maintenance and operation of the general common elements. Such estimates may include, among other things, expenses of management; taxes and special assessments until the condominium units are separately assessed as provided



herein; premiums for all insurance which the Association is required or permitted to maintain pursuant hereto; common lighting and heating; water charges; trash collection; sewer service charges; repairs and maintenance; wages for Association employees; legal and accounting fees; any deficit remaining from a previous period; the creation of reasonable funds or reserves for the maintenance, repair and replacement of those general common elements that must be replaced on a periodic basis; and any other expenses and liabilities which may be incurred by the Association for the benefit of the owners under or by reason of this Declaration.

(c) Apportionment of Regular Assessments. Expenses attributable to the general common elements and to the project as a whole shall be borne equally by all owners.

(d) Notice of Regular Assessments and Time for Payment Thereof. Regular assessments shall be made on January 1 through December 31 fiscal year basis. The Association shall give written notice to each owner as to the amount of the regular assessment with respect to his condominium unit on or before January 1 each year for the fiscal year commencing on such date. Such assessments shall be due and payable monthly, quarterly, annually or at such other times as may be prescribed by the Association. Such regular assessments shall be due and payable within ten (10) days after the installment payment date prescribed by the Association, and shall bear interest at the rate of twelve percent (12%) per annum from the date becomes due and payable if not paid within ten (10) days after such date. Failure of the Association to give timely notice of any assessment as provided herein shall not affect the liability of the owner of any condominium unit for such assessment.

(e) Special Assessments for Capital Improvements. In addition to the regular assessments authorized by this paragraph, the Association may levy in any assessment year a special assessment, payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the project or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration. This section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other sections hereof. Any amounts assessed pursuant hereto shall be assessed equally to each of the owners. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the owners, and no payment shall be due less than thirty (30) days after such notice shall have been given. A special assessment shall bear interest at the rate of twelve percent (12%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date.

22. RESERVE FUND. The Association shall, upon its inception, establish an adequate reserve fund for the periodic maintenance, repair, and replacement of the common elements, which fund shall continuously be maintained out of the annual assessments for common expenses.

23. INSURANCE.

(a) Types of Insurance. The Association shall obtain and keep in full force and effect at all times the following insurance coverage provided by companies duly authorized to do business in Colorado. The provisions of this Article shall not be construed to limit the power or authority of the Association to obtain and main-

tain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.

(1) Casualty Insurance. The Association shall obtain insurance on the project in such amounts as shall provide for full replacement thereof in the event of damage or destruction from the casualty against which such insurance is obtained, all in the manner in which a corporation owning similar multiple family residential buildings in the vicinity of the project would, in the exercise of prudent business judgment, obtain such insurance. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, flood insurance if available and if deemed appropriate by the Association and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection. The Association may comply with the above requirements by the purchase of blanket coverage and may elect such "deductible" provisions as in the Association's opinion are consistent with good business practice.

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

(3) Public Liability and Property Damage Insurance. The Association shall purchase broad form comprehensive liability coverage in such amounts and in such forms as it deems advisable to provide adequate protection. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance, and other use of the project.

(4) Workmen's Compensation and Employer's Liability Insurance. The Association shall purchase workmen's compensation and employer's liability insurance and all other similar insurance in respect of employees of the Association in the amounts and in the forms now or hereafter required by law.

(5) Fidelity Insurance The Association may purchase, in such amounts and in such forms as it shall deem appropriate, coverage against dishonesty of employees, destruction or disappearance of money or securities, and forgery.

(6) Other. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the project, including any personal property of the Association located thereon.

(b) Form. Casualty insurance shall be carried in a form or forms naming the Association the insured, as trustee for the owners and for Declarant, whether or not it is an owner, which policy or policies shall specify the interest of each condominium unit owner (owner's name, unit number, the appurtenant undivided interest in the common elements), and which policy or policies shall provide a standard, noncontributory mortgagee clause in favor of each first mortgagee which from time to time shall give notice to the Association of such first mortgage. Each policy also shall

provide that it cannot be cancelled by either the insured or the insurance company until after ten (10) days' prior written notice is first given to each owner, to Declarant and to each first mortgagee. The Association shall furnish to each owner a true copy of such policy, together with a certificate identifying the interest of the owner. All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular owner guilty of breach of warranty, act, omission, negligence or noncompliance with any provision of such policy, including payment of the insurance premium applicable to that owner's interest, or who permits or fails to prevent a loss, happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy. All policies of insurance shall provide further that the insurance under any such policy as to the interest of all other insured owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

Public liability and property damage insurance shall name the Association the insured, as trustee for the owners and for Declarant, whether or not it is an owner, and shall protect each owner and Declarant against liability for acts of the Association in connection with the ownership, operation, maintenance, or other use of the project.

(c) Owners' Responsibility. Insurance coverage on the furnishings and other items of personal property belonging to an owner, and casualty and public liability insurance coverage within each individual unit and for activities of the owner, not acting for the Association with respect to the common elements, shall be the responsibility of the respective owners.

(d) Replacement Value. Determination of maximum replacement value of all condominium units and improvements owned by the Association (for insurance purposes) shall be made annually by the Association. Each owner may obtain additional insurance, at his own expense, for his own benefit, provided that all such policies shall contain waivers of subrogation, and provided further that the liability of the carriers issuing insurance shall not be affected or diminished by reason of any such insurance carried by any unit owner. In no event shall the insurance policy contain a co-insurance clause for less than ninety percent (90%) of full replacement cost.

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

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

(b) Complete Taking.

(1) In the event that the entire project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium ownership pursuant hereto shall terminate. The Condemnation Award shall be apportioned among the Owners in the same ratio as the respective values of each condominium Unit bear to each other. The values of such units shall be independently determined by appraisals made at the time of the taking, provided, however, that if a standard different from the value of the property as a whole is employed as the measure of the Condemnation Award in the negotiation, judicial decree or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable.

(2) On the basis of the principle set forth in the last preceding paragraph, the Association shall as soon as practicable determine the share of the Condemnation Award to which each owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner provided in Section 28(b)(1) through (5).

(c) Partial Taking. In the event that less than the entire condominium project is taken or condemned, sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate. Each owner shall be entitled to a share of the Condemnation Award to be determined in the following manner: As soon as practicable the Association shall reasonably and in good faith allocate the Condemnation Award between compensation, damages or other proceeds and shall apportion the amounts so allocated among the owners as follows:

(i) the total amount allocated to taking of or injury to the General Common Elements, shall be apportioned among the Owners on the basis of each Owner's interest respectively in the General Common Elements; (ii) the total amount allocated to severance damages shall be apportioned to those Condominium Units which were not taken or condemned; (iii) the respective amounts allocated to the taking of or injury to a particular Unit and to the Limited Common Elements appurtenant thereto and to the improvements an Owner has made within his own Unit shall be allocated to the particular Unit involved and (iv) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If the allocation of the Condemnation Award is already established in negotiations, judicial decree or otherwise, then in allocating the Condemnation Award the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be disbursed as soon as practicable in the same manner provided in Section 28(b)(1) through (5). In the event a partial taking results in the taking of a complete Unit, the Owner thereof shall automatically cease to be a member of the Association, shall cease to hold any right, title and interest in the remaining Common Elements and shall execute any and all documents necessary to accomplish the same. Thereafter, the Association shall re-allocate the ownership, voting rights and assessment ratio in accordance with this Declaration, according to the same principles employed in this Declaration at its inception, and shall submit such re-allocation to the Owners and first mortgagees of the remaining Units for amendment of this Declaration as provided in Section 20 hereof.

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

25. OWNER'S PERSONAL OBLIGATION FOR PAYMENT OF ASSESSMENTS.

The amount of the Common Expenses assessed against each Condominium Unit shall be the personal and individual debt of the Owner thereof. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Unit. Both the Board of Directors and Managing Agent

shall have the responsibility to take prompt action to collect any unpaid assessment which remains unpaid more than fifteen (15) days from the due date for payment thereof. In the event of default in the payment of the assessment, the Unit Owner shall be obligated to pay interest at the rate of twelve percent (12%) per annum on the amount of the assessment from due date thereof, together with all expenses, including attorney's fees, incurred, together with such late charges as provided by the By-Laws of the Association. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing same.

26. ASSESSMENT LIEN. All sums assessed but unpaid for the share of Common Expenses chargeable to any Condominium Unit shall constitute a lien on such Unit superior to all other liens and encumbrances, except only for tax and special assessment liens on the Unit in favor of any assessing Unit, and all sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance. To evidence such lien, the Board of Directors or the Managing Agent shall prepare a written notice of lien assessment, setting forth the amount of such unpaid indebtedness, the name of the Owner of the Condominium Unit and a description of the Condominium Unit. Such a notice shall be signed by one of the Board of Directors or by one of the officers of the Association or by the Managing Agent, and shall be recorded in the office of the Clerk and Recorder of Boulder County, Colorado. Such lien for the Common Expenses shall attach from the date of failure of payment of the assessment. Such lien may be enforced by the Association in like manner as a mortgage on real property subsequent to the recording of a notice or claim thereof. In any such proceeding, the Owner shall be required to pay the costs, expenses and attorney's fees incurred for filing the lien, and in the event of foreclosure proceedings, all additional costs, including all expenses and reasonable attorney's fees incurred. The Owner of the Condominium Unit being foreclosed shall be required to pay to the Association the monthly assessment for the Condominium Unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power to bid in the Condominium Unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, note the votes appurtenant to, convey, or otherwise deal with the same. Any encumbrances holding a lien on a Condominium Unit may pay, but shall not be required to pay, any unpaid Common Expenses payable with respect to such Unit, and upon such payment, such encumbrances shall have a lien on such Unit for the amounts paid of the same rank as the lien of his encumbrance. Upon request of a mortgagee, the Association shall report to the mortgagee of a Condominium Unit any unpaid assessments or other default remaining unpaid or uncured for longer than twenty-five (25) days after the same are due; provided, however, that a mortgagee shall have furnished to the Managing Agent or to the Board of Directors notice of such encumbrance.

27. ASSESSMENT CERTIFICATE - LIABILITY FOR COMMON EXPENSE UPON TRANSFER OF CONDOMINIUM UNIT IS JOINT. Upon payment to the Managing Agent, or if there is no Managing Agent, then to the Association, of a reasonable fee, not to exceed Twenty-Five Dollars (\$25.00), and upon the written request of any Owner or any mortgagee or prospective mortgagee of a Condominium Unit, the Association, by its Managing Agent, or if there is no Managing Agent, then by the financial officer of the Association, shall issue a written statement setting forth the amount of the unpaid Common Expenses, if any, with respect to the subject Unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for any advanced payments of common assessments, for prepaid items, such as insurance premiums, but not including accumulated amounts for reserves or sinking funds, if any, which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied with within ten (10) days, all unpaid Common Expenses which become due prior to the date of making such request shall be subordinate to the rights of the person requesting such statement. The grantee of a Condominium Unit, except for any first mortgagee who comes into possession of a Condominium Unit pursuant to the remedies provided in its mortgage or deed of trust, or who becomes an Owner of a Unit pursuant to the foreclosure of its mortgage or deed of trust, or by the taking of a deed in lieu thereof, shall be jointly

and severally liable with the grantor for all unpaid assessments up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from grantor the amounts paid by the grantee therefor; provided, however, that upon payment of a reasonable fee, not to exceed Twenty-Five Dollars (\$25.00), as is hereinabove provided and upon written request, any such prospective grantee shall be entitled to a statement from the Managing Agent, or if there is no Managing Agent, then from the Association, setting forth the amount of the unpaid assessments, if any, with respect to the subject Unit, the amount of the current monthly assessment, the date that such assessment becomes due, and credits for any advanced payments of common assessments, prepaid items, such as insurance premiums, which statement shall be conclusive upon the Association. Unless such request for such a statement shall be complied with within ten (10) days of such request, then such requesting grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for any unpaid assessments against the subject Unit. The provisions set forth in this paragraph shall not apply to the initial sale and conveyances of the Condominium Units made by Declarant, and such sales shall be free from all Common Expenses to the date of conveyance made, or to a date agreed upon by Declarant and Declarant's grantee.

28. ASSOCIATION AS ATTORNEY-IN-FACT. This Declaration does hereby make mandatory in the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction, repair or obsolescence.

Title to any Condominium Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the Owners irrevocably constitute and appoint the Association their true and lawful attorney in their name, place and stead for the purpose of dealing with the property upon its destruction or obsolescence as is hereinafter provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant Secretary, shall have full and complete authorization, power and right to make, execute and deliver the interest of a Condominium Unit Owner which are necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the improvement(s) as used in the succeeding subparagraphs means restoring the improvement(s) to substantially the same condition in which it existed prior to the damage, with each Unit and the General and Limited Common Elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration or replacements, unless the Owners and all first mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

(a) In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as attorney-in-fact, to such reconstruction and the improvement(s) shall be promptly repaired and reconstructed. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair and restoration of the improvement(s).

(b) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not

more than sixty percent (60%) of all of the Condominium Units (the whole property), not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of an assessment to be made against the Owner or Owners of the particular Unit affected by such casualty damage, or if both Units are damaged, pro-rata against both Units in proportion to the cost of repair to each Unit. Such deficiency assessment shall be due and payable within thirty (30) days after written notice thereof. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of the improvement(s) using all of the insurance proceeds for such purpose, notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his Condominium Unit and may be enforced and collected as is provided in Paragraph 26. In addition thereto, the Association as attorney-in-fact, shall have the absolute power and right to sell the Condominium Unit of any Owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association, as attorney-in-fact, pursuant to the provisions of this paragraph. The delinquent Owner shall be required to pay to the Association the costs and expenses for filing the notices, interest on the amount of the assessment and all reasonable attorneys fees. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

- (1) For payment of taxes and special assessment liens in favor of any assessing entity and customary expense of sale;
  - (2) For payment of the balance of the lien of any first mortgage;
  - (3) For payment of unpaid Association assessments and all costs, expenses and fees incurred by the Association;
  - (4) For payment of junior liens and encumbrances in the order of and to the extent of their priority;
- and,
- (5) The balance remaining, if any, shall be paid to the Condominium Unit Owner.

(c) If the insurance proceeds are insufficient to repair and reconstruct the damaged improvement(s), and if such damage is more than sixty percent (60%) of all of the Condominium Units (the whole property), not including land, and if both of the Owners do not voluntarily, within one hundred (100) days thereafter, make provisions for reconstruction, which plan must have the unanimous approval or consent of every first mortgagee, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire remaining premises shall be sold by the Association, pursuant to the provisions of this paragraph, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Map and the By-Laws.

The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each Owner's percentage interest in the Common Elements, and such divided proceeds shall be paid into separate accounts, each such account representing one of the Condominium Units. Each such account shall be in the name of the Association, and shall be further identified by the Condominium Unit designation and the name of the Owner. From each separate account, the Association, as attorney-in-fact, shall forthwith use and disburse the total amount (of each) of such accounts, without contribution from one account to another, toward the partial or full payment of the lien of any first mortgage against the Condominium Unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds derived from the sale of the entire property. Such apportionment shall be based upon each Condominium Unit Owner's percentage interest in the Common Elements. The total funds of each account shall be used and disbursed without contribution from one account to another, by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph (b)(1) through (5) of this paragraph.

If all of the Owners of Units within the project adopt a plan for reconstruction, which plan has the unanimous approval of all first mortgagees, then all of the Owners shall be bound by the terms and other provisions of such plan. Any assessment made in connection with such plan shall be a Common Expense and made pro rata according to each Owner's percentage interest in the Common Elements and shall be due and payable as provided by the terms of such plan, but not sooner than thirty (30) days after written notice thereof. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair or restoration of improvements, using all of the insurance proceeds for such purpose, notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his Condominium Unit, and may be enforced and collected as is provided in Paragraph 26. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association. The delinquent Owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the rate of six percent (6%) per annum on the amount of the assessment, and all reasonable attorneys fees. The proceeds derived from the sale to such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in Paragraph (b)(1) through (5) of this paragraph.

(d) All of the Owners may agree that the Common Elements are obsolete and adopt a plan for the renewal and reconstruction, which plan has the unanimous approval of all first mortgagees of record at the time of the adoption of such plan. If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the Owners as Common Expenses.



(e) All of the Owners and all of the holders of all recorded mortgages or deeds of trust covering or affecting all of the Condominium Units may agree that the Condominium Units are obsolete and that the same should be sold. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire premises shall be sold by the Association, as attorney-in-fact, for all of the Owners, free and clear of the provisions contained in this Declaration, the Map and the By-Laws. The sales proceeds shall be apportioned between the Owners in the same ratio as the respective values of the Condominium Units bear to one another, as determined by current appraisals, and such apportioned proceeds shall be paid into separate accounts, each such account in the name of the Association, and shall be further identified by the Condominium Unit designation and the name of the Owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount (of each) of such accounts, without contribution from one account to another, for the same purposes and in the same order as is provided in subparagraph (b) (1) through (5) of this paragraph.

(f) In the event of damage to a Unit which exceeds the amount of \$10,000.00, the Association shall give written notice of such damage to the holder of a mortgage or deed of trust covering such Unit.

29. PERSONAL PROPERTY FOR COMMON USE. The Association, as attorney-in-fact for all of the Owners, may acquire and hold for the use and benefit of all of the Condominium Unit Owners, real tangible and intangible personal property, and may dispose of the same by sale or otherwise. The beneficial interest in such property shall be owned by all of the Condominium Unit Owners in the same proportion as their respective interests in the Common elements, and such interest therein shall not be transferable except with a transfer of a Condominium Unit. A transfer of a Condominium Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto. Each Owner may use such property in accordance with the purpose for which it is intended without hindering or encroaching upon the lawful rights of the other Owners. The transfer of title to a Condominium Unit under foreclosure shall entitle the purchaser to the beneficial interest in such personal property associated with the foreclosed Condominium Unit.

30. REGISTRATION OF MAILING ADDRESS. Each Owner shall register his mailing address with the Association, and notices or demands intended to be served upon an Owner shall either be personally delivered to an Owner or be sent by mail, postage prepaid, addressed in the name of the Owner at such registered mailing address.

31. PERIOD OF CONDOMINIUM OWNERSHIP. The separate condominium estates created by this Declaration and the Map shall continue until this Declaration is revoked in the manner and as provided in Paragraph 20 of this Declaration or until terminated in the manner and as is provided in subparagraphs (c) or (e) of Paragraph 28 of this Declaration.

32. GENERAL RESERVATIONS. Declarant, for itself, its successors, assigns and licensees, reserves the following:

Notwithstanding any other provisions expressly or implied to the contrary contained in this Declaration, the Articles of Incorporation, and the By-Laws, Declarant reserves the right to exercise the rights, duties and functions of the Association Board of Directors of Managing Agent, or both, until thirty (30) days after the last sale of all of the condominium units, or until June 30, 1980, whichever occurs first, including the exclusive right and power to delegate to others, the duties of a resident Manager or Managing Agent, or both. The compensation or fee to be paid therefor shall be reasonable, and shall be a part of the common expenses. Upon the sale of all of the condominium units, or on June 30, 1980, whichever is applicable, Declarant shall give written notice thereof to the condominium unit owners at which time the first meeting of the Association members shall be called.

### 33. RESTRICTIVE COVENANTS.

(a) The property is hereby restricted to residential dwellings for residential use and uses relating to the convenience and enjoyment of such residential use; provided, however, that the foregoing shall not prohibit or preclude the conduct of any home occupation use of a condominium unit which may be lawful under the ordinances of the City of Boulder from time to time existing. No buildings or structures shall be moved from other locations onto said premises, and no subsequent buildings other than the building shown on the condominium map shall be built on the property. No structures of a temporary character, no trailers, campers, tents, basements, sheds, garages, or other outbuildings shall be used or permitted to be kept or stored on any portion of the premises at any time either temporarily or permanently, without the previous written consent of the Association.

(b) The Association through the Board of Directors shall have the power to limit or prohibit the presence of animals, livestock, reptiles or birds kept on any part of the project.

(c) No signs or advertising devices of any nature shall be erected or maintained on any part of the project without the prior written consent of the Association. The Association shall permit the placing of at least two signs of reasonable size and dignified form to identify the project and the units therein.

(d) All clotheslines, equipment, service yards, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring units and streets. All rubbish, trash or garbage shall be regularly removed from the property and shall not be allowed to accumulate thereon.

(e) No exterior additions, alterations or decorating to any buildings, nor changes in fences, major landscaping features, bridges, walls, gates and other structures shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, height, materials, location and approximate cost of same shall have been submitted to and approved in writing as to conformity and harmony of external design and location with existing structures in the property by the Association, or by a representative designated by it.

(f) No owner and no owner's guests shall violate the rules and regulations adopted from time to time by the Association, whether relating to the use of condominium apartments, the use of General or Limited Common Elements, or otherwise.

(g) If, due to the act or neglect of an owner or such owner's guests or family, loss or damage shall be caused to any person or property, including the project or any condominium apartment therein, such owner shall be liable and responsible for the same except to the extent that such damage or loss is covered by insurance obtained by the Association and the carrier of the insurance has waived its rights of subrogation against such owner. The amount of such loss or damage may be collected by the Association from such owner as an assessment against such owner, by legal proceedings or otherwise, and such amount shall be secured by a lien on the unit of such owner as provided hereinabove for assessments or other charges.

34. ASSOCIATION RIGHT TO ACQUIRE ADDITIONAL PROPERTY.

(a) The Association may acquire and hold for the benefit of all of the condominium unit owners, real, tangible and intangible personal property and may dispose of the same by sale or otherwise.

(b) The owners of the condominium units shall have a perpetual non-exclusive easement in common with all other condominium unit owners in this condominium project giving them the right to beneficial use and enjoyment of any recreational facilities which the Association acquires, and holds, either by purchase or by gift. A conveyance of a condominium unit shall transfer to the grantee ownership of the grantor's easement to the beneficial use and enjoyment in all such property interests acquired and owned by the Association.

35. REVOCATION OF PREVIOUS DECLARATION. The Declarant, being the owner of all the real property described in Exhibit A, hereby revokes and terminates that Declaration of Covenants, Conditions and Restrictions of Gregory Creek Condominiums recorded January 17, 1978, on Film 993 at Reception No. 260965, as the same affects the real property described in Exhibit A.

36. GENERAL.

(a) Notwithstanding any other provisions expressly or implied to the contrary contained in this Declaration, the Articles of Incorporation or By-Laws of the Association, during the period of sale of this condominium project, the monthly assessment for common expenses shall be based upon the actual cost, and shall not include any estimated amount for contingencies, reserves or sinking funds. Declarant shall pay its pro rata share of the expenses based on its ownership of condominium units at any given time.

(b) If any of the provisions of this Declaration, or any paragraph, sentence, clause, phrase or word, or the application therein in any circumstance 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.

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

(d) That 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.

IN WITNESS WHEREOF, Declarant has duly executed this Declaration this 16th day of April, 1979.

GREGORY CREEK PARTNERSHIP

By: [Signature]  
Donald W. Unkefer, Jr., Partner

By: [Signature]  
Richard F. Cooper, Jr., Partner

By: [Signature]  
James R. Loftus, Partner

By: [Signature]  
Peter B. Barnum, Partner

By: [Signature]  
William B. Bachman, Partner

By: [Signature]  
Helen P. Taft, Partner

[Signature]  
Donald W. Unkefer, Jr., Trustee

[Signature]  
William B. Bachman, Individually

STATE OF COLORADO )  
                                  )  
COUNTY OF BOULDER )

The foregoing instrument was acknowledged before me this 16th day of April, 1979, by Donald W. Unkefer, Jr., Richard F. Cooper, Jr., James R. Loftus, Peter B. Barnum, William B. Bachman, and Helen P. Taft, Partners in Gregory Creek Partnership, and by Donald W. Unkefer, Jr., as Trustee, and by William B. Bachman, Individually.

Witness my hand and official seal.

My commission expires: 9/28/80

[Signature]  
Notary Public

EXHIBIT B

<u>UNIT DESIGNATION</u>		<u>UNIT NO.</u>	<u>UNDIVIDED INTEREST</u>
<u>BUILDING NO.</u>			<u>IN AND TO COMMON ELEMENTS</u>
A	1	1	1/45th
A	2	2	1/45th
A	3	3	1/45th
A	4	4	1/45th
A	5	5	1/45th
A	6	6	1/45th
B	1	1	1/45th
B	2	2	1/45th
B	3	3	1/45th
B	4	4	1/45th
B	5	5	1/45th
B	6	6	1/45th
B	7	7	1/45th
B	8	8	1/45th
B	9	9	1/45th
C	1	1	1/45th
C	2	2	1/45th
C	3	3	1/45th
C	4	4	1/45th
C	5	5	1/45th
C	6	6	1/45th
D	1	1	1/45th
D	2	2	1/45th
D	3	3	1/45th
D	4	4	1/45th
D	5	5	1/45th
D	6	6	1/45th
D	7	7	1/45th
D	8	8	1/45th
D	9	9	1/45th
E	1	1	1/45th
E	2	2	1/45th
E	3	3	1/45th
E	4	4	1/45th
E	5	5	1/45th
E	6	6	1/45th
F	1	1	1/45th
F	2	2	1/45th
F	3	3	1/45th
F	4	4	1/45th
F	5	5	1/45th
F	6	6	1/45th
F	7	7	1/45th
F	8	8	1/45th
F	9	9	1/45th

EXHIBIT A

Lot 1, GREGORY CREEK SUBDIVISION, a subdivision in the City of Boulder, County of Boulder, State of Colorado, according to the recorded Plat thereof.

Lots 2 and 3, GREGORY CREEK SUBDIVISION, a subdivision in the City of Boulder, County of Boulder, State of Colorado, according to the recorded Plat thereof.